## SUPREME COURT OF THE UNITED STATES.

## OCTOBER TERM, 1911.

No. 723.

# EFFIE HOKE AND BASILE ECONOMIDES, PLAINTIFFS IN ERROR,

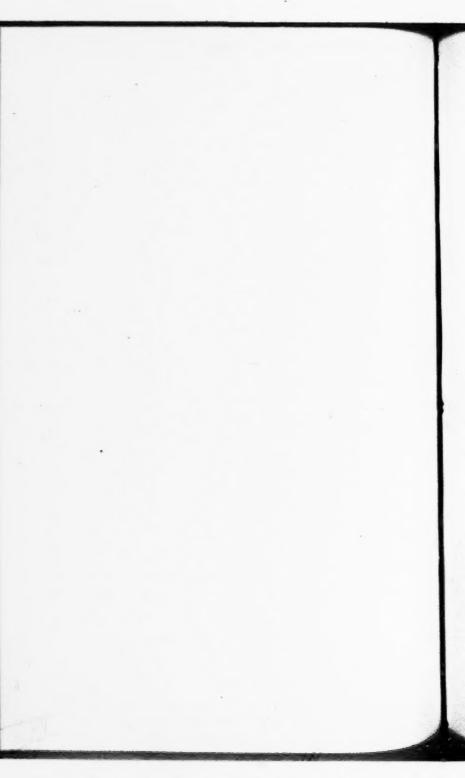
vs.

## THE UNITED STATES.

## IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TEXAS.

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#### CAPTION.

BE IT REMEMBERED, That at a stated term of the District Court of the United States in the Fifth Circuit thereof, and in and for the Eastern District of Texas, at Beaumont, begun and holden at Beaumont, Texas, on the 3rd day of April, A. D. 1911, and which term adjourned on the 15th day of April, A. D. 1911, the Honorable Gordon Russell, United States District Judge for the Eastern District of Texas, presiding, the following proceedings were had, and the following cause came on for trial, and was tried, to-wit:

#### THE UNITED STATES.

versus

Cr. No. 167.

EFFIE HOKE AND BASILE ECONOMIDES.

#### INDICTMENT.

Filed March 13, 1911.

United States of America, Eastern District of Texas.

In the District Court of the United States in and for the Eastern District of Texas aforesaid, at the February Term thereof, A. D. 1911.

The Grand Jurors of the United States impanelled, sworn and charged at the term aforesaid of the court aforesaid, on their oath present that one, Effie Hoke, whose name is to the Grand Jurors otherwise unknown, did on the fourteenth day of November, A. D. 1910, in the City of New Orleans and State of Louisiana, unlawfully, feloniously and knowingly persuade, induce and entice one Annette Baden alias Annette Hays, a woman, to go from New Orleans, a city in the State of Louisiana, to Beaumont, a city in the State of Texas, in interstate commerce, for the purpose of prostitution, and the

said Effie Hoke did then, there and thereby knowingly cause the said Annette Baden alias Annette Hays, the woman aforesaid, to go and to be carried and transported as a passenger upon the line and route of a common carrier engaged in Interstate Commerce between the city of New Orleans in the State of Louisiana and the city of Beaumont, in the State of Texas, to-wit, over the line of the Texas and New Orleans Railroad Company, which line of railroad is a part of the Southern Pacific Railway System, and is commonly known as the "Sunset Route," any other name or a more particular description of said common carrier is to the Grand Jurors unknown and cannot here be given, with the intent and purpose of her, the said Effie Hoke that the said Annette Baden alias Annette Hays should engage in the practice of prostitution in the said city of Beaumont; that the said Annette Baden alias Annette Hays. a woman as aforesaid, so persuaded, induced and enticed as aforesaid by the said Effie Hoke, did then and thereto and was transported in interstate commerce over the line and route of said common carrier as hereinbefore set out from the said city of New Orleans in the State of Louisiana to and into the city of Beaumont in the State of Texas, the said city of Beaumont being within the Eastern District and within the jurisdiction of this court and the said Annette Baden alias Annette Hays so persuaded, induced and enticed as aforesaid to go in interstate commerce as aforesaid from the said city of New Orleans in the State of Louisiana to the city of Beaumont, in the State of Texas, for the purpose of prostitution, did then and there on her arrival in the said city of Beaumont, Texas, engage in the practice of prostitution.

And the Grand Jurors aforesaid do say that one Basile Economides in the said city of New Orleans and State of Louisiana on the fourteenth day of November, A. D. 1910, did unlawfully, feloniously and knowingly

aid and assist the said Effie Hoke to persuade, induce and entice the said Annette Baden alias Annette Hays, a woman, to go in interstate commerce from New Orleans in the State of Louisiana to Beaumont in the State of Texas for the purpose of prostitution, as is hereinbefore set out, with the intent then and there and purpose then and there on the part of her, the said Effie Hoke and on the part of him the said Basile Economides and with the intent and pose then and there of each of them that the said Annette Baden alias Annette Havs should engage in the practice of prostitution in the said city of Beaumont. Texas, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

2nd Count: And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Effie Hoke, whose name is to the Grand Jurors otherwise unknown, on the fourteenth day of November, in the year 1910, in the city of New Orleans and State of Louisiana did unlawfully, feloniously and knowingly persuade, induce and entice one. Florence Baden alias Florence Hays, a girl, to go from New Orleans, a city in the State of Louisiana, to Beaumont a city in the State of Texas, in interstate commerce for the purpose of prostitution. and the said Effie Hoke did then, there and thereby knowingly cause the said Florence Baden alias Florence Hays, the girl as aforesaid, to go and to be carried and transported as a passenger upon the line and route of a common carrier engaged in Interstate Commerce between the city of New Orleans in the State of Louisiana and the city of Beaumont in the State of Texas, towit: over the line of the Texas and New Orleans Railroad Company which line of railroad is a part of the Southern Pacific Railway System, and is commonly known as the "Sunset Route," any other name or a more particular description of said common carrier is to the Grand Jurors unknown and cannot here be given. with the intent and purpose of her, the said Effie Hoke that the said Florence Baden alias Florence Hays, should engage in the practice of prostitution in the said city of Beaumont: that the said Florence Baden alias Florence Hays, a girl as aforesaid so persuaded, induced and enticed as aforesaid by the said Effie Hoke, did then and there go and was transported in interstate commerce over the line and route of said common carrier as hereinbefore set out from the said city of New Orleans, in the State of Louisiana to and into the city of Beaumont in the State of Texas, the said city of Beaumont being within the Eastern District and within the jurisdiction of this court and the said Florence Baden alias Florence Havs so persuaded, induced and enticed as aforesaid to go in interstate commerce as aforesaid from the city of New Orleans in the State of Louisiana to the city of Beaumont, in the State of Texas. for the purpose of prostitution, did then and there on her arrival in the said city of Beaumont, Texas, engage in the practice of prostitution.

And the Grand Jurors aforesaid do say that one Basile Economides in the said city of New Orleans and State of Louisiana on the fourteenth day of November. A. D. 1910, did unlawfully, feloniously and knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Florence Baden alias Florence Hays. a girl, to go in interstate commerce from New Orleans in the State of Louisiana to Beaumont in the State of Texas for the purpose of prostitution, as is hereinbefore set out, with the intent then and there and purpose then and there on the part of her the said Effie Hoke and on the part of him the said Basile Economides and with the intent and purpose then there of each of them that the said Florence Baden alias Florence Hays should engage in the practice of prostitution in the said city of Beaumont, Texas, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

3rd Count: And the Grand Jurors aforesaid. on their oath aforesaid. I rther present, that the said Effie Hoke, whose name is to the Grand Jurors otherwise unknown, on the fourteenth day of November, in the year 1910, in the City of New Orleans and State of Louisiana. did unlawfully, feloniously and knowingly persuade, induce and entice one. Gertrude Baden alias Gertrude Hays, a girl then and there under the age of eighteen years, to go from New Orleans, a city in the State of Louisiana to Beaumont a city in the State of Texas, in interstate commerce for the purpose of prostitution, and the said Effie Hoke did then, there and thereby knowingly cause the said Gertrude Baden alias Gertrude Hays, the girl as aforesaid, to go and to be carried and transported as a passenger upon the line and route of a common carrier engaged in Interstate Commerce between the city of New Orleans in the State of Louisiana and the city of Beaumont in the State of Texas, to-wit, over the line of the Texas and New Orleans Railroad Company which line of railroad is a part of the Southern Pacific Railway System, and is commonly known as the "Sunset Route," any other name or a more particular description of said common carrier is to the Grand Jurors unknown and cannot here be given, with the intent and purpose of her. the said Effie Hoke that the said Gertrude Baden alias Gertrude Havs, should engage in the practice of prostitution in the said city of Beaumont; that the said Gertrude Baden alias Gertrude Hays, a girl as aforesaid so persuaded, induced and enticed as aforesaid by the said Effie Hoke, did then and there go and was transported in interstate commerce over the line and route of said common carrier as hereinbefore set out from the said city of New Orleans in the State of Louisiana to and into the City of Beaumont in the State of Texas, the said city of Beaumont being within the Eastern District and within the jurisdiction of this court and the said Gertrude Baden alias Gertrude Hays so persuaded, induced and enticed as aforesaid to go in interstate commerce as aforesaid from the said city of New Orleans in the State of Louisiana to the city of Beaumont in the State of Texas for the purpose of prostitution, did then and there on her arrival in the said city of Beaumont, Texas, engage in the practice of prostitution.

And the Grand Jurors aforesaid do say that one Basile Economides in the said city of New Orleans and State of Louisiana on the fourteenth day of November, A. D. 1910, did unlawfully, feloniously and knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Gertrude Baden alias Gertrude Hays. a girl, to go in interstate commerce from New Orleans in the State of Louisiana to Beaumont in the State of Texas for the purpose of prostitution, as is hereinbefore set out, with the intent then and there and purpose then and there on the part of her the said Effie Hoke and on the part of him the said Basile Economides and with the intent and purpose then and there of each of them that the said Gertrude Baden alias Gertrude Hays should engage in the practice of prostitution in the said city of Beaumont, Texas, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

> J. B. DAILEY, Asst. United States Attorney.

The foregoing has the following endorsements, to-wit: Cr. No. 167. No. 2124. District Court United States. Eastern District of Texas. The United States vs. Effie Hoke and Basile Economides. Indictment. Violation "White Slave Traffic Act." A true bill. H. E. Cabeen, Foreman. Filed in open court Mch. 10, A. D. 1911. J.

R. Blades, Clerk, by Jno. S. Stone, Deputy. J. B. Dailey, Asst. U. S. Attorney. Filed Mar. 13, 1911. J. R. Blades, by C. C. Bumpas, Deputy.

#### VERDICT.

## Filed April 11, 1911.

Beaumont, Texas, April 11, A. D. 1911.

We, the jury, find the defendants Effie Hoke and Basile Economides guilty as charged in the first count of the indictment.

We also find the defendants Effie Hoke and Basile Economides guilty as charged in the second count of the indictment.

We, the jury, also find the defendants Effie Hoke and Basile Economides guilty as charged in the third count of the indictment.

(Signed) B. J. Lewis,

Foreman.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Verdict of jury. Filed Apr. 11, 1911. J. R. Blades, Clerk, by C. C. Bumpas, Deputy.

## JUDGMENT OF CONVICTION.

Entered April 11, 1911.

The United States

versus

No. 167.

Effie Hoke and Basile Economides. April 11th, 1911.

On this day, April 11th, 1911, came the United States Attorney, and the defendants appearing in their own proper persons, in custody of the Marshal of this district, as of yesterday, the trial having continued from day to day. Thereupon, the defendants, Effie Hoke and Basile Economides, were severally and legally arraigned upon the charges alleged in the bill of indictment duly filed herein against them; and upon said arraignment, having entered their several pleas of not guilty.

Thereupon, on this day the jury of twelve good and lawful men, to-wit: B. J. Lewis and eleven others, who having been heretofore duly elected, tried, impaneled and sworn, and who having heard the pleas of the defendants and the evidence herein, and having received the charge of the court, returned into open court, their verdict, in words and figures as follows, to-wit:

- "Beaumont, Texas, April 11th, A. D. 1911.
- "We the jury find the defendants, Effie Hoke and Basile Economides, guilty as charged in the first count of the indictment.
- "We also find the defendants Effie Hoke and Basile Economides guilty as charged in the second count of the indictment.
- "We the jury also find the defendants Effie Hoke and Basile Economides guilty as charged in the third count of the indictment.

"(Signed) B. J. Lewis, Foreman."

Wherefore, it is considered, ordered and adjudged by the court that the defendants herein, Effie Hoke and Basile Economides, be, and they are hereby adjudged guilty in the following particulars: That the defendant Effie Hoke be, and she is hereby adjudged guilty of unlawfully, feloniously and knowingly persuading, inducing and enticing one Annette Baden, alias Annette Hays, a woman; and Florence Baden, alias Florence Hays, a woman; and Gertrude Baden, alias Gertrude Hays, a girl under the age of eighteen years of age, to go from New Orleans, a city in the State of Louisiana, to Beaumont, a

city in the State of Texas, in interstate commerce, for the purpose of prostitution; and that the said Basile Economides, in the said city of New Orleans and State of Louisiana, did unlawfully, feloniously and knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Annette Baden, alias Annette Hays, Florence Baden, alias Florence Hays; and Gertrude Baden, alias Gertrude Hays, to go in interstate commerce from New Orleans in the State of Louisiana, to Beaumont, in the State of Texas, for the purpose of prostitution, as charged in counts one, two and three of the indictment, and as found by the jury.

And said defendants were thereupon remanded to the custody of the Marshal of this district.

JUDGMENT OF SENTENCE.

Entered April 15, 1911.

The United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides. April 15th, 1911.

Beaumont, Texas, April 15th, 1911.

On this day again came the United States Attorney and the defendants again appearing in their own proper persons, respectively, in the custody of the Marshal. Thereupon, each of the defendant, to-wit: Effie Hoke and Basile Economides, was asked by the court if anything they had to say why the sentence of the court should not be pronounced against them, respectively; and each of the defendants saying nothing in bar of judgment;

Therefore, it is now considered by the court, and the court doth now here pronounce judgment and sentence against said defendants, as follows: That the said defendant Basile Economides be taken hence forthwith

by the United States Marshal for the Eastern District of Texas, and confined in the County Jail of Jefferson County, Texas; that, as soon thereafter as is convenient, the said defendant. Basile Economides, shall be by the said Marshal delivered to the Warden of the United States Penitentiary, at Leavenworth, Kansas, and that the defendant be confined in said penitentiary for a period of two years upon the first count of the indictment: also for a period of two years upon the second count of the indictment; also for a period of two years upon the third count of the indictment. Said sentence of two years upon the second count shall begin to run at the expiration of the sentence of two years upon the first count; and said sentence of two years upon the third count shall begin to run at the expiration of the sentence of two years adjudged upon the second count: the sentence to begin from the time of the delivery of his body to the Warden of said penitentiary.

(2) That the said defendant, Effie Hoke, be taken hence forthwith by the United States Marshal for the Eastern District of Texas, and confined in the County Jail of Jefferson County, Texas; that as soon thereafter as is convenient, the said defendant, Effie Hoke, shall be by the said Marshal delivered to the Warden of the Kansas State Penitentiary, at Lansing, Kansas, and that the defendant, Effie Hoke, be confined in said penitentiary for a period of two years upon the first count of the indictment; also for a period of two years upon the second count of the indictment; and for a period of two years upon the third count of the indictment. Said sentence of two years upon the second count shall begin to run at the expiration of the sentence of two years upon the first count; said sentence of two years upon the third count shall begin to run at the expiration of the sentence of two years adjudged upon the second count; the sentence to date from the time of the delivery of her body to the Warden of the penitentiary last aforesaid.

It is further considered by the court, and so ordered, that a writ of commitment issue from this court to carry. and that the Marshal of the Eastern District of Texas. take and convey, the bodies of the said defendants, respectively, to the penitentiaries hereinbefore named, and deliver their bodies within the walls of said respective penitentiaries to the Superintendent or other proper officer thereof, together with a certified copy of the judgment of conviction, also a certified copy of this sentence and judgment, both under the seal of the court, in order that this judgment may be carried into effect. further ordered that a commitment issue from this court to the Jailor of the Jefferson County Jail, in order that the said defendants may be there confined pending the convenience of the Marshal as aforesaid, in delivering defendants to the Wardens.

And the defendants were remanded to the custody of the Marshal.

### BILL OF EXCEPTIONS No. 1 & 2.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus Criminal No. 167.
Effie Hoke and
Basile Economides.

Be it remembered that preceding their announcement of ready for trial and before being called upon to plead to the indictment in this cause the defendant, Basile Economides, filed and presented to the Court the following demurrers and motions to quash the indictment herein, which the co-defendant, Effie Hoke, adopted, to-wit: "In the District Court of the United States for the Eastern District of Texas, at Beaumont.

#### United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

"Now comes the defendant, Basile Economides, and demurring to the indictment herein, moves to quash the same on the following grounds, to-wit:

#### FIRST.

"Because the Act of Congress of June 25th, 1910, commonly designated and known as the 'White Slave Act,' under which this indictment is drawn is in express violation of the Constitution of the United States, Art. IV, Sec. 2, in this: That one of the 'privileges' of a citizen of a State is to travel into another State, and the 'immunity' of protection from arrest in so doing, regardless of the intent or purpose of the traveller to give herself up to 'debauchery' or prostitution or for any other immoral purpose after completing her journey; and another 'privilege or immunity' of a citizen is to aid or assist her in obtaining such transportation, regardless of her purpose, intent, or object, and regard less of his purpose, intent, or object in so aiding her, or the pursuit of any occupation, whether moral or immoral, she may have upon the completion of her jour ney, and regardless of the purpose of the person aiding or assisting her in obtaining such transportation.

### SECOND.

"Because among the powers reserved to the States individually is that of forbidding, regulating or controlling prostitution or the debauchery of their female citizens, and of prescribing any rule or rules governing the morals or immoralities of their female citizens; and the Congress of the United States cannot constitutionally aid, regulate, or interfere with any of the powers so reserved to the States individually, by thus indirectly denouncing as a felony the acts of aiding and assisting one citizen by another to travel interstate with the purpose, object, or intention that the citizens so traveling at the end of the journey should engage in prostitution or debauchery or other immoral practice.

#### THIRD.

"Because the enumerated constitutional power granted to Congress, and conferred by the United States Constitution, Art. I, Sec. 8, subdivision 2, 'to regulate commerce \* \* \* among the several States,' does not embrace or include the power to regulate the acts after reaching her destination of any citizen who has traveled interstate, nor the disposition of any commodity in a State after it has reached its destination; in that in any case as soon as the interstate carriage is completed the power to control the passenger or the commodity ceases as a matter of 'Commerce among the States.'

#### FOURTH.

"Because Congress under its delegated power 'to regulate commerce \* \* \* \* among the States,' has no power to make the intention or purpose of an interstate traveller, nor of any person aiding or assisting her to procure the transportation, upon reaching his or her destination, a condition precedent to his or her right to such interstate transportation where no treason against the General Government or some individual State is alleged in the indictment.

GREER & NALL, and T. H. BOWERS, of counsel for said Defendant. HAL W. GREER, Attorney for the Defendant, Basile Economides."

The foregoing has the following endorsements, to-wit:
Criminal No. 167. United States vs. Effic Hoke and
Basile Economides. Demurrers and motion to quash
indictment, filed by defendant, Basile Economides.
Filed April 3, 1911. J. R. Blades, Clerk, by C. C. Bumpas, Deputy.

The defendant, Effie Hoke, joined in and adopted the foregoing as pertaining to her defense, and the Court considered the same as though filed by her.

And the Court after hearing said motion, and the argument of counsel thereon, because it was and is the opinion of the Court that said demurrers and motion to quash are not well taken, and being of opinion the Act

of Congress of June 25th, 1910, commonly designated and known as the "White Slave Act" is constitutional in all respects, in open court overruled and refused said demurrers and motion to quash, and required the defendants to plead to said indictment; to all of which defendants in open court then and there duly excepted.

And thereupon the defendant, Basile Economides, duly presented aworn demurrers to said indictment, which his co-defendant, Effie Hoke, adopted, as follows, towit:

"United States District Court, Eastern District of Texas. Paris Division.

The United States

No. 167.

Effie Hoke and Basile Economides.

"And now comes the defendant, Basile Economides, in his own proper person and represented by his counsel and protesting his innocence and not waiving the demurrer filed hereinbefore by him, yet says that the said indictment No. 167, and in each and every count thereof, as the allegations are in each and every count thereof contained and set out is not sufficient in law to compel him to answer the same and especially for this, towit:

- "1. Because the matters and things set out and charged against him, the said Basile Economides, in each and every count thereof do not constitute an offense against the laws of the United States.
- "2. Because the matters and things in each and every count of said indictment against him, said Basile Economides, charged and set out do not constitute an offense cognizable in this Honorable Court, that said matters and things do not come within its powers and jurisdiction.
- "3. That it is not alleged and charged in the first count of the said indictment that the said Basile Economides did thereby knowingly cause or aid or assist in

causing the said Annette Baden alias Annette Hays to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any territory or the District of Columbia.

- "4. That it is not alleged or charged in the second count of the said indictment that the said Basile Economides did thereby knowingly cause or aid or assist in causing the said Florence Baden alias Florence Hays to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any territory or the District of Columbia.
- "5. That it is not alleged or charged in the third count of said indictment that said Basile Economides did in furtherance of said purpose knowingly induce or cause the said Gertrude Baden alias Gertrude Hays a girl under the age of eighteen years to go and to be carried or transported or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers.
- "6. That the allegations in said indictment in each and every count thereof are so vague, general, and uncertain as to afford no proper notice unto him said Basile Economides to plead and prepare his defense.
- "Wherefore for want of a sufficient indictment in the premises the defendant Basile Economides prays that he be not compelled to answer the same and that he be discharged.

CHANDLER C. LUZENBERG,
Attorney for Defendant,
Basile Economides.

GREER & NALL, and T. H. BOWERS, of Counsel.

## BASILE ECONOMIDES.

"Basile Economides being duly sworn doth say that all allegations of fact contained in this demurrer are true to the best of his knowledge and belief. "Sworn to and subscribed before me this the 5th day day of April, A. D. 1911.

J. R. BLADES, Clerk, By C. C. BUMPAS, Dep.

The foregoing has the following endorsements, to-wit: Cr. No. 167. United States vs. Effie Hoke and Basile Economides. Demurrers of the defendant, Basile Economides, to the indictment. Filed Apr. 5, 1911. J. R. Blades, Clerk, by C. C. Bumpas, Deputy.

The defendant, Effie Hoke, by her counsel, joined in and adopted the foregoing as pertaining to her defense, and the Court so considered the same.

And the Court after hearing the argument of counsel thereon, because it was and is the opinion of the Court that said demurrers are not well taken and that the in dictment sufficiently sets forth and charges the offense under the law, the Court thereupon overruled and refused said demurrers. To which the defendants in open court duly excepted.

And now here in open court present this their bill of exceptions Number 1 to such rulings of the Court, and they pray that the same be duly approved and filed and ordered incorporated in the record herein.

HAL W. GREER, T. H. BOWERS, C. C. LUZENBERG, E. L. NALL, W. R. BLAIN and C. W. HOWTH,

Attorneys for said Defendants.

Presented and duly approved and ordered filed and incorporated in the record herein this the 23rd day of May, A. D. 1911.

GORDON RUSSELL, Judge Presiding.

#### BILL OF EXCEPTIONS No. 2.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

#### United States

versus

No. D. L. 167.

Effie Hoke and Basile Economides.

Be it remembered, that on the trial of this cause, beginning on the 6th day of April, A. D. 1911, and ending on the 11th day of April, A. D. 1911, and at the April Term, A. D. 1911, of said court, the Hon. Gordon Russell, Judge Presiding, the following proceedings were had, to-wit:

A jury was impaneled and sworn according to law, and thereupon the United States, to sustain the issue upon its part, offered the following testimony, of the following witnesses as its evidence in chief:

ANNETTE BADEN, alias Annette Hays, testified for the United States as follows:

Questioned by Mr. Dailey, Assistant United States Attorney:

- Q. State your name to the jury:
- A. Annette Baden.
- Q. Do you go by any other name?
- A. Yes sir.
- Q. What is that?
- A. Hays.
- Q. Annette Hays?
- A. Yes sir.
- Q. Did you ever live in the City of New Orleans?
- A. Yes sir, two years.
- Q. When did you go to New Orleans first?
- A. The 15th of June will be two years.

- Q. Two years ago?
- A. Yes sir, two years ago this June.
- Q. Where had your home been prior to that time?
- A. At Slidell, La.
- Q. Were you in any business when you went to New Orleans?
  - A. Yes sir, saleslady.
  - Q. In whose store?
  - A. Maison-Blanche.
  - Q. How long did you work there?
  - A. Six months.
  - Q. You stayed there six months?
  - A. Yes sir.
  - Q. What did you do then?
- A. After I worked there awhile I went to a confectionery store as saleslady, Furst & Kramer's.
  - Q. How long did you work for them.
  - A. Six months.
  - Q. What did you do then?
- A. I went on State Street and lived with my grandmother.
  - Q. You lived there how long?
  - A. Six months.
  - Q. What did you do then?
  - A. I went to the country and stayed two weeks.
  - Q. You stayed in the country two weeks?
  - A. Yes sir.
  - Q. When did you come back from the country?
  - A. On Sunday afternoon.
  - Q. In what year was that?
  - A. Last year.
  - Q. In what month?
  - A. November.
  - Q. Do you know Basile Economides?
  - A. Yes sir.
  - Q. Point him out to the jury?
  - A. (Points to the defendant Economides).

- Q. The man with the mustache back there!
- A. Yes, sir.
- Q. Do you know Effie Hoke?
- A. Yes, sir.
- Q. How long had you known Economides before you went to the country?
  - A. About four or six months.
  - Q. What business was he in?
  - A. The saloon business.
  - Q. Where was his saloon?
  - A. On Burgundy and Iberville.
  - Q. In what place.
  - A. In New Orleans.
- Q. Did he have just an ordinary saloon, where you would go to get a drink; what sort of saloon did he run?
- A. A saloon and private dining-room for ladies to drink.
  - Q. Is that what is known as a wine room?
  - A. Yes, sir; a wine room.
- Q. You say you had known him four or six months before you went to the country?
  - A. Yes, sir.
  - Q. Do you know Effie Hoke?
  - A. Yes, sir.
  - Q. Point her out to the jury.
  - A. (Points out the defendant, Effie Hoke).
  - Q. When did you first meet her?
  - A. Monday afternoon, when I came from the country.
  - Q. After you came back from the country on Sunday?
  - A. Yes, sir.
  - Q. Where did you meet her?
  - A. At Mr. Economides' Cafe.
  - Q. How did you happen to be at the cafe?
  - A. We were passing there, and he called us.
  - Q. Who were passing there?
  - A. My sister Florence and I.
  - Q. Is she older or younger than you?

- A. Younger.
- Q. How old are you?
- A. Twenty.
- Q. You were passing Economides' saloon?
- A. Yes, sir; and Mr. Economides called us. He called us, and we started on. My sister was on her way to work at the picture show.
  - Q. Where were you going?
- A. Home. A little boy came after us and says: "Mr. Economides says you-all come back." My sister says: "I have to go to work at the picture show." So I went back to the saloon to the corner, and he was standing in front of his saloon, and my sister went on to work, and I went back to him and was talking to him and Mr. Economides says: "Go on and get Florence."
- Q. You went back with the little boy to Economides' place?
  - A. Yes, sir.
  - Q. What was said when you got back?
  - A. He said: "Where is Florence?"
  - Q. Who said that?
- A. Mr. Economides. And he said: "Where have you been all this time?" And I told him: "I have been to the country." And he says: "I have been looking for you."
  - Q. What else did Mr. Economides say?
  - A. He told the little boy to go back and get Florence.
  - Q. Did the boy leave?
  - A. Yes, sir; and Florence was near the corner.
  - Q. Where did you and Economides go then?
  - A. I went upstairs with Mr. Economides.
  - Q. Was that over his saloon?
  - A. Yes, sir.
- Q. What kind of room was it you went into over the saloon?
  - A. A private wine room.
  - Q. Connected with his saloon?

- A. Yes, sir.
- Q. All right; go ahead and tell the jury what he said after you got up there.
- A. We had a drink, Mr. Economides and I, and by that time Florence came in, and we had another drink; and Mr. Economides says: "I have a lady friend I want you to meet," and he says, "Do you want to meet her?" and we said "yes," and he said he had 'phoned for the friend he wanted us to meet, and so in about twenty minutes afterwards Miss Effie came in.
  - Q. Effie who?
  - A. Hoke.
  - Q. The defendant here?
  - A. Yes, sir. We all drank together.
  - Q. You, Florence and Mr. Economides?
  - A. Yes, sir.
  - Q. You continued having drinks together?
- A. Yes, sir; and after twenty minutes afterwards, while we were drinking, Miss Pauline came in.
- Q. How long was it after you went up in the wine room until Effie Hoke came?
  - A. Twenty minutes.
- Q. What was said by Economides or by Effie Hoke, if anything?
- A. When she came in he said: "Here is the lady from Beaumont I want you to meet." He says: "Miss Effie, these are the girls I have been telling you about." and she said, "Let's have a drink," and we all had a drink together; and by that time Mr. Economides says, "You have another sister, Gertrude; go get her." He says, "She is younger than these two; go get her." I says, "No, I don't want my little sister along; don't go get her." Miss Effie says, "Yes, here is fifty cents, go get Gertrude." She said that to Florence, and she went and got Gertrude.
- Q. Was there anything else said, anything about your leaving New Orleans?

- A. After we had some drinks and all she said she had a private house in Beaumont.
- Q. Tell what Economides said, and what Effie Hoke said.
- A. She said she had a private boarding house in Beaumont, and there was no reason for working for five dollars a week when salesladies could get fifteen dollars a week in Beaumont. We were intoxicated, and we said we did not care, we would go along, and in about twenty minutes afterwards Gertrude came in and we had a drink, and she told all about going to Beaumont.
- Q. Did Economides say anything about going to Beaumont?
- A. He said his lady friend would treat us nice; that she had a private boarding house, and that we would be well taken care of—just like a mother.
  - Q. Anything else?
- A. We continued taking drinks, and ordered drink after drink, and sister Florence started to go to the theatre, and they said "No, stay here," and Economides said we were pikers and to take more drinks. Florence said, "I have to go to the theatre. I am not dressed to think of being out; let me go to the theatre." He said, "Oh, don't be a piker; have a drink." Economides said that.
  - Q. He said, "Don't be a piker, have some more drinks"?
  - A. Yes, sir.
- Q. Florence left, I believe you said, to go get the other sister?
- A. Yes, sir; in about twenty minutes she was back with her, and we had more drinks with Gertrude, and when we left there Mr. Economides 'phoned for a taxicab, after we decided we would go, and we went from there to Miss Pauline's. We went to her house in the taxicab, and there we had two drinks, and then we went to the depot.

- Q. Was anything said by Effie Hoke to Economides there at the saloon about money matters?
  - A. No, sir.

Q. About owing some money?

- A. Mr. Economides said, "Tell Effie Hoke you owe \$12.00 to your landlady on St. Charles Street. " I told him I didn't owe anything.
  - Q. Did he tell you why you must tell her that?
- A. He said: "When you get in Beaumont you don't know what time you will want to come back, and I will send you the \$12.00 and you can come back." I told him I did not owe my landlady anything, and he says, "I will tell her you owe \$6.00," and when she came back to Beaumont she told me I owed \$6.00 to Economides for a board bill, and I told her I didn't owe anything.
- Q. You say that after your sister Gertrude got there you all decided to come to Beaumont?
  - A. Yes, sir; after we had a couple more drinks
  - Q. Florence and Gertrude are both your sisters?
  - A. Yes, sir.
  - Q. How old is Florence?
  - A. Nineteen the 18th of this month.
  - Q. How old is Gertrude?
  - A. Seventeen last December.
  - Q. Where did you go from Economides' saloon?
- A. Mr. Economides 'phoned for a taxicab, and we went to Miss Pauline's.
  - Q. Who paid for the taxicab?
  - A. Miss Effie did.
- Y. Was there anything said by Economides as to who was to pay?
  - A. He told them they would settle down at the house.
  - Q. Whose house?
  - A. Miss Pauline's.
  - Q. Who is Miss Pauline?
  - A. She is a landlady on St. Louis Street.
  - Q. The keeper of an assignation house?

- A. Yes, sir.
- Q. This was on Monday afternoon?
- A. At 7:30; yes, sir.
- Q. What date?
- A. I don't remember the date; about the 14th, I think, of November.
  - Q. What time did you all leave the wine room?
  - A. About 7:30.
- Q. What time was it that Economides first called you that afternoon?
- A. Somewhere near 5 o'clock; 5 o'clock in the afternoon.
  - Q. You stayed at the wine room until 7?
  - A. Yes, sir; 7:30.
  - Q. And then went in a taxicab to Miss Pauline's?
  - A. Yes, sir.
  - Q. How long did you stay there?
  - A. Fifteen or twenty minutes.
  - Q. What happened there?
  - A. We had a couple of drinks.
  - Q. Was Mr. Economides there?
- A. No, sir; we had a couple of drinks, and fixed up and put on different hats and went to the depot.

Mr. Luzenberg, for Defendant Economides: We submit that anything that occurred out of the presence of Mr. Economides is not evidence against him.

The Court: In the opinion of the Court, it would be a matter of fact for the jury to decide what connection Economides had with procuring the girls to come from New Orleans to Beaumont. This witness having testified about a conversation, I think the balance of it becomes admissible, like the journey itself becomes admissible.

Defendant Economides excepts.

Q. You went to this house; who was present when you got to this house?

A. Miss Effie and Miss Pauline were present when we got to the house.

- Q. Pauline who?
- A. Pauline Wilson.
- Q. You got there some time after 7 o'clock?
- A. Yes, sir.
- Q. You had agreed to come to Beaumont when you left the saloon?
  - A. Yes, sir.
- Q. What did you hear Effie Hoke say after you got to this place about coming to Beaumont, and how you would come here?

Mr. Luzenberg: We make the same objection.

The Witness: She said, "Here is a lady that will go with you: Therese Flood."

- Q. Who made that statement?
- A. Miss Effie did. She says, "I am sending Therese with you; she is older than you-all and used to traveling and more experienced; you go along with her." And Effie counted out some money, and she said to Miss Pauline," Will you lend me money to make up \$45.00?" and she said "yes" and looked in a trunk and counted out the money and handed it to Theresa, and said "You take the girls over and I will be over there to-morrow morning."
  - Q. Over where?
  - A. To Beaumont.
- Q. Effie told you that Theresa was going along with you; that she was older than you, and she would give Theresa the money to bring you to Beaumont, and she, Effie Hoke, would come on the next morning's train?
  - A. Yes, sir.
  - Q. Miss Pauline was at Economides' saloon?
- A. Yes, sir; Effie was there about twenty minutes, and Miss Pauline came.
- Q. In the conversation between yourself and Economides and Effie Hoke, did Economides say anything in reference to if you were not satisfied in Beaumont?



- A. Yes, sir; he said if we were not satisfied to write to him and he would send us the money to come back.
- Q. That if you got to Beaumont and were not satisfied to write to him and he would send you the fare back to New Orleans?
  - A. Yes, sir.
- Q. When did you leave Pauline Wilson's house? What time of night was it?
  - A. About quarter past eight, I guess.
  - Q. Where did you go?
- A. We went from there in a taxicab to the Union Station.
  - Q. How long did you stay there?
- A. I guess we stayed about twenty minutes at the station before we taken the train.
  - Q. You took the train at the station?
  - A. Yes, sir.
  - Q. Do you know what road it was?
  - A. No. sir.
  - Q. Who bought the tickets down there?
  - A. Theresa bought four tickets.
  - Q. Did you have any money at that time?
  - A. No, sir.
  - Q. Theresa Flood bought the tickets?
  - A. Yes, sir.
- Q. She bought both your sisters' tickets and your ticket?
  - A. Yes. sir.
  - Q. You took the train at New Orleans?
  - A. Yes, sir.
  - Q. Where did you go?
  - A. To Beaumont.
  - Q. What time did you get to Beaumont?
- A. About quarter to eight the next morning we got here.
- Q. What coach did you come in, the day coach, or a Pullman coach, or what?

- A. We took a chair car.
- Q. Did you stay in that chair car from the time you left Beaumont until you reached New Orleans?
  - A. Yes, sir.
  - Q. You reached Beaumont at what time?
  - A. Quarter to eight the next morning.
  - Q. Where did you go after you got here?
  - A. We taken a taxicab and went to Effie Hoke's.
  - Q. Where was Effie Hoke's?
  - A. Down on Bonham Street.
  - Q. On Bonham Street?
  - A. Yes, sir.
  - Q. What kind of house was that?
  - A. It was a rough house.
  - Q. What kind of house?
  - A. A rough house.
  - Q. By that you mean a sporting house?
  - A. Yes, sir.
  - Q. Was it a house of prostitution?
  - A. Yes, sir.
  - Q. Who was there when you got there?
  - A. Two girls taking care of the house.
  - Q. What were their names?
  - A. Lucille Camp and Ouida Landry.
- Q. When you left New Orleans, did you understand you were going to a house of prostitution?
  - A. No, sir.
- Q. When was the first time you discovered that you were in a house of prostitution?
  - A. As soon as I got there.
  - Q. Who told you that?
  - A. Ouida Landry.
- Q. When did you next see the defendant, Effie Hoke, after you left New Orleans?
- A. The following morning; the next morning after we got here.
  - Q. Did you have any conversation with her?

Mr. Luzenberg: We make the same objection.

The Witness: Yes, sir; a couple of hours after she came we did.

Q. What about?

A. She called us down and said she would make books with us; how much we owed her, our fare over here, and \$18.00 board and the \$6.00 we owed our landlady; and I told her we did not owe the landlady anything, and she said Economides said we owed her \$6.00.

The Court: Do you mean charged you up with it?

The Witness: Yes, sir; our fare over here and board.

Q. She said you owed her the fare over here?

A. Yes, sir; \$8.35.

Q. You owed her how much?

A. Eighteen dollars board and \$6.00 she gave Mr. Economides.

Q. She said she gave Economides what?

A. Six dollars that he said we owed the landlady.

Q. Now, did you want to go back to New Orleans?

A. Yes, sir. We went to Ouida Landry's room, and she said: "Do you know what kind of house you are in?" I says: "No; what kind of house is it?" She says: "You are in a tough sporting house." And she said: "I want to go back myself, but I owe a bill." We three sisters said we wanted to go back, too.

Mr. Howth: We object to that as hearsay.

The Court: The statements made by Ouida Landry would not be admissible.

The Witness: After she made books with us I wanted to go, and she said: "You owe me \$18.00 board." I said: "I want to go back to New Orleans."

Mr. Luzenberg: We object to these statements made, because they were out of the presence of Mc. Economides.

Objection overruled.

Defendant Economides excepts.

Q. Go ahead and state what was said.

A. I told Miss Effie I wanted to go back to New Orleans, and she said: "You have to pay me \$6.00 I gave Mr. Economides, and \$8.35 for your fare, and your board starts to-day." I told her I did not have it, and she said: "You have to stay here until you pay it." We stayed there a week and a half, and could not get out of debt. Peddlers would come along and she would buy us things, and we got in debt more and more and we never could get out of debt, so one morning we decided to take up our clothes and go, anyway. We packed up our clothes, and one of my sisters got out in the morning, and Gertrude did not get out. Ouida Landry and Florence got out.

Q. What time did they leave the house?

A. About 5 o'clock, I believe; and Gertrude and I left there; I mean were left there; we were asleep, so they sent this fellow back for Gertrude and I.

Q. Who was that?

A. Paul something; I forget his name.

Mr. Howth: We object to that, because it is not shown that either defendant had any connection with Paul.

The Court: No, sir; but it explains the conditions under which they left, and I will allow her to state it.

Exception by both defendants.

Q. He came back for you-all?

1A. Yes, sir; when he was coming up the back way he turned over a chair and Miss Effie waked up.

Q. Who came up the back way?

A. Paul; and he stumbled over a chair and that waked Miss Effie, and she asked him what he meant by breaking in her house. He said: "I did not break in your house; I came here to see Gertrude." She says: "Yes, you have taken Florence and Ouida, and now you have

come for Annette and Gertrude." And she 'phoned for an officer and had him arrested, so the officer came and taken Paul away.

Q. What did Effie say to you, if anything?

A. She came in my room and taken my clothes and Gertrude's and put them in a vacant room and locked them up.

Q. Why did she do that?

A. She said there were two men-

Mr. Howth: We object to that, because it is not charged in the complaint and does not constitute any part of the offense with which the defendants are charged. Nothing that happened in Beaumont could constitute an offense under the Federal statute. That might constitute an offense against the State laws, but the offense charged here is bringing the women from New Orleans to Beaumont for a particular purpose, and it is immaterial what they did after they got here. It is prejudicial to the defendants, and does not constitute any part of the allegations of the indictment against the defendants, nor could it possibly constitute any offense against the United States Government.

Objections overruled.

Mr. Greer: There is no charge in the indictment that they were held or restrained, and to permit proof of such facts tends to prejudice the jury against the defendant Economides, who was not present and not participating.

Both defendants except.

Q. Now, what did Effie say to you?

A. She told us she would keep our clothes until we paid her what we owed her. She taken my clothes and Sister Gertrude's and locked them in a vacant room, and she said when we paid her what we owed her we could leave, so that afternoon, after Florence and Ouida got out, she would not give me my hat or coat or anything,

so I borrowed the maid's coat and went to the postoffice, and there I met Florence and Ouida and was talking to them, and was on my way back to Miss Effie's to stay with Gertrude, and an officer said, "Miss Effie has got all three of you up for vagrancy—

- Q. Don't state that. Were you arrested?
- A. Yes, sir; he said, "You are under arrest."

Mr. Howth: We object to all this as irrelevant and immaterial and is not covered by the allegations of the indictment and does not constitute proof of the allegations of the indictment.

Mr. Greer: Let the objections apply for both defendants.

The Court: I will admit the testimony as to the defendant Effie Hoke. At the same time, I will tell the jury now that testimony of any transaction had by this or any of the other witnesses with Effie Hoke when the defendant Economides was not present, would only be evidence against Effie Hoke, unless the jury should find from the evidence in the case taken as a whole that both defendants, Economides and Effie Hoke, were engaged in the commission of the offense charged in the bill of indictment. If the jury should find that there was an agreement between Effie Hoke and Economides to commit the offense charged, then statementts made by either of them in pursuance of the common design would be evidence against both of them up to the time of the consummation of the offense charged in the bill of indictment and statements made by either of the defendants after the completion of the offense charged would only be evidence against the one making the statement. In addition to that, the Court will endeavor to give the jury the proper rule in the charge. I will admit it against the defendant, Effie Hoke, and it will not be considered as testimony against the defendant Economides.

Defendant Effie Hoke excepts.

- Q. You were arrested by an officer for what?
- A. Vagrancy.
- Q. Did you telephone Effie Hoke about that?
- A. Yes, sir.

Mr. Howth: We object to that as leading.

Objection overruled.

Defendant Effie Hoke excepts.

- Q. You did telephone to Effie Hoke?
- A. Yes, sir.
- Q. State the conversation between yourself and Effie at that time.
- A. I 'phoned her and asked her if it was so, that the Marshal said I was under arrest and that she had all three of us up for vagrancy, and she said "yes."
  - Q. You told her you were under arrest?
  - A. Yes, sir.
- Q. And that the Marshal had said she had had all three of you arrested for vagrancy?
  - A. Yes, sir; myself, Florence and Ouida.

Mr. Howth: We object to that. The statement made by the Marshal would not be admissible.

Q. You told her that the Marshal had said that all three of you were arrested for vagrancy?

A. Yes, sir; and she said "yes, I had you all up for vagrancy." I said, "I was on my way back," and she said she didn't care, I was up for vagrancy.

Q. Don't state what the Marshal said. Did you go back to her house any more?

- A. No, sir; he told us-
- Q. Don't state what the Marshal said. I understood you to say that you and your sister Florence had just got back from the country when you left for Beaumont on Monday?
  - A. Yes, sir.
  - Q. What clothes did you have in New Orleans?
  - A. A suitcase I had taken to the country with me.
  - Q. Did that have your clothes in it?

- A. Yes, sir; some of mine and Florence's.
- Q. Did you bring that suitcase with you?
- A. Yes, sir.
- Q. What clothes did Gertrude bring with her?
- A. She didn't have any with her.
- Q. How were you dressed when you went down to Pauline's house in New Orleans before you left?
- A. I was plainly dressed; I had a little plain hat when we went to Pauline's and Miss Effie gave me one of her hats.
  - Q. What kind of hat was that?
  - A. A pink hat, with an ostrich tip on it.
  - Q. Did she say why she gave you that hat?
- A. She said: "Take this and wear it; your hat looks too girlish."
  - Q. Were the clothes of your other sisters changed?
- A. Pauline brought out a hat for Gertrude and told her to wear it, that she looked fine in it, and would not look so kiddish with it on.
- Q. When you left the house of the defendant, Effie Hoke, in Beaumont, you were arrested. You stated your clothes were locked up?
  - A. Yes, sir.
  - Q. You borrowed a clock from whom?
  - A. The maid at Miss Effie's.
  - Q. Who was the maid?
  - A. Julia, a colored maid.

## CROSS-EXAMINATION.

## Questioned by Mr. Luzenberg.

- Q. When you first came to New Orleans, I understood you to say you were working for Maison-Blanche?
  - A. Yes, sir.
  - Q. Where were you living?
  - A. No. 621 St. Charles Street.
  - Q. Whose house was that?
  - A. Mrs. Grainage's.

- Q. Do you remember what month that was when you first came to New Orleans?
  - A. Yes, sir; June.
  - Q. What year?
  - A. Two years ago this June.
  - Q. 1909†
  - A. Yes, sir.
  - Q. How long did you remain at Mrs. Grainage's?
  - A. About a month.
  - Q. Where then did you go?
- A. I went from there to my grandmother's, on State Street.
  - Q. That is on what part of State Street?
  - A. No. 608.
  - Q. How long did you remain there?
  - A. Only six months.
- Q. Did you move back to Mrs. Grainage's at any time?
- A. Yes, sir. I stayed with my grandmother six months, and then went back to Mrs. Grainage's and stayed there about a month.
- Q. When you first stayed at Mrs. Grinage's, you worked at the Maison-Blanche as a saleslady?
  - A. Yes, sir.
  - Q. What time did you go to work in the morning?
  - A. About 8 o'clock.
  - Q. You worked until about what time?
  - A. At 5 o'clock in the afternoon.
  - Q. The second time you were at Mrs. Grinage's, you were working at Furst & Kramer's?
- A. Yes, sir; I worked at Maison-Blanche and stayed with my aunt before I finished working there.
  - Q. Did you ever live at Mrs. Carrie Bryant's?
  - A. No, sir.
  - Q. No. 127 North Rampart Street?
  - A. No, sir.

- Q. Now, at the time you met Miss Hoke, you were then boarding with whom?
  - A. Mrs. Maggie Howard or Miss Haggie Howard.
  - Q. Had you been working that day?
  - A. No, sir.
  - Q. Were you working at all at that time?
- A. I had just come in from the country Sunday afternoon and was going to go to work on Wednesday, and met Miss Effie on Monday.
- Q. You were with Miss Florence when you passed Economides' place?
  - A. Yes, sir.
- Q. You had been in the country how long before you met Miss Effie?
  - A. Two weeks. I had been in Pass Christian, Miss.
- Q. What had you been doing in Pass Christian, Miss.?
  - A. Visiting my aunt.
  - Q. Your sister Florence was with you?
  - A. Yes, sir.
  - Q. Was your sister Gertrude?
  - A. No, sir; she was with my aunt on Tulane Avenue.
- Q. You had been to the saloon of Mr. Economides before?
  - A. Yes, sir.
  - Q. Many times?
  - A. Yes, sir.
- Q. You knew it was a saloon that women and men frequented?
  - A. Yes, sir.
  - Q. As a matter of fact you did know it, did you not?
  - A. Yes, sir.
- Q. When you first passed by Economides he told you what? I understood you to say he wanted you to meet someone?
- A. Yes, sir; and I went back to where he was in front of the saloon. He said, "Where is Florence?" and sent

a little boy to tell Florence to come back, and Mr. Economides and I went upstairs and in fifteen or twenty minutes Florence came in.

- Q. How many drinks did you have while waiting for Florence?
  - A. Two or three drinks.
  - Q. What were you drinking?
  - A. Beer and cocktails.
  - Q. Mixed together?
  - A. Yes, sir.
- Q. Did you have any drinks with Florence when she came?
  - A. Yes, sir.
  - Q. Florence came before Miss Effie Hoke did?
  - A. Yes, sir.
- Q. How many drinks did you have with Florence before Miss Effie Hoke came?
  - A. Four or six drinks.
  - Q. Was that besides the two or three you had before?
  - A. Yes, sir.
  - Q. Do you remember what you were drinking?
- A. Cocktails and creme de menthe and celery highballs and beer all mixed up.
- Q. Six or eight or ten drinks you had before Effie Hoke came?
  - A. Yes, sir.
  - Q. You said a woman named Wilson came?
  - A. Yes, sir; Pauline.
  - Q. Did she come before or after Effie Hoke?
  - A. Afterwards.
- Q. You said something about Effic asking you to take a drink?
- A. Yes, sir; Economides introduced us to Effie and she said "Let's have a drink," and we had more drinks; different kinds, I guess.
- Q. Do you remember how many drinks you had between the time Effic came and Miss Wilson came?

- A. I guess about six drinks.
- Q. Isn't it a fact you took so many drinks that you don't remember how many you had?
- A. No, sir, I don't remember; I kept on drinking; I never did keep count.
  - Q. Everybody was drinking?
  - A. Yes, sir.
- Q. I understood you to say that Mr. Economides said it was a nice house, or what did he say about it?
- A. He said it was a nice house, and she would treat us like a mother if we would go there.
  - Q. In the presence of Miss Hoke?
  - A. Yes, sir.
  - Q. In the general conversation?
  - A. Yes, sir.
  - Q. That was all he said about your coming here?
  - A. Yes, sir.
- Q. He had not said anything to you before Miss Effie Hoke came?
  - A. No, sir.
  - Q. It was after she had told you that he said that?
  - A. Yes, sir.
- Q. That was during the general conversation, while you were all drinking?
  - A. Yes, sir.
- Q. Then he afterwards told you for you to get some money from her, whatever it was, because you might not find the place as nice as you thought it was and might want to come back, and if you did want to come back you could write to him and he would send you the money to come back. He did tell you that?
  - A. Yes, sir.
  - Q. Did you write to him?
  - A. Yes, sir.
  - Q. When?
  - A. I wrote one letter and Miss Effie or some of the

girls tore it up, and I wrote another and he never did answer it.

- Q. Do you know if he received it?
- A. No, sir; I wrote it.
- Q. Did you mail it yourself?
- A. Yes, sir.
- Q. Where?
- A. At the office.
- Q. Where did you address it?
- A. At his cafe.
- Q. What did you tell him?
- A. That I did not like the place and wanted to get out of it, and wanted him to send me the money to come back; that it was a different place from what I thought it was, and for him to send me the money to come home.
- Q. Do you remember when it was you wrote that letter; was it the day you left the house or a day or two before?
  - A. It was at Miss Effie's house.
- Q. How long was that before you left Miss Effie's house?
- A. I wrote this letter about four days after I got to Miss Effie's house.
  - Q. Which was the letter torn up?
- A. Three days after I got there I wrote a letter to Mr. Economides and had it on the dresser and went back to the room and it was torn up, and I wrote another one on the fourth day and mailed it.
  - Q. Where did you mail it?
  - A. Right here.
- Q. You told him it was a different house from what you expected it to be, and to send you the money, you wanted to come home?
  - A. Yes, sir.
  - Q. That was four days after you got there?
  - A. Yes, sir.

- Q. You stated that you don't remember how many drinks you had?
  - A. No, sir.
- Q. Now, is it not a fact that you are rather hazy about the conversation you had there in this place of Mr. Economides'?
- A. I was so intoxicated I didn't know what was going on.
  - Q. That was not the first time you ever drank?
- A. Yes, sir; the first time I ever drank highballs and cocktails.
  - Q. What had you been in the habit of drinking?
  - A. Beer.
- Q. Had you not been in the habit of going in saloons with different people drinking there?
- A. Once in a while I would go to a saloon and take a glass of beer and a sandwich.
- Q. Were you not in the habit of going to these places at all hours of the night, and drinking?
  - A. No, sir.
  - Q. Do you know Billie Seebold?
  - A. Yes, sir.
  - Q. Had you not gone to his place at night and drank?
  - A. Yes, sir; once or twice about 9 or 10 o'clock.
- Q. Were you not in the habit of going there three or four evenings in the week and drinking and meeting different men there?
  - A. No. sir.
  - Q. And drinking with different men in that saloon?
- A. Some friends would go with us there; I was not in the habit of meeting people there.
- Q. Different friends would go with you at different times?
- A. Yes, sir; we would go at respectable hours, 10, 11 or 12 o'clock.
- Q. Were you boarding at Mrs. Grinage's at the time you left?

- A. Yes, sir.
- Q. What time did you generally come in at night?
- A. Ten or eleven.
- Q. As a rule, you did not come in until halfpast 12 or 1 or 2 o'clock in the morning?
- A. No, sir, that is not true; we would have friends come and take us to the show.
  - Q. You were working at her place?
  - A. Yes, sir.
- Q. You are certain you used to live there and go to work at 8 o'clock and not at 1 or 2 o'clock in the afternoon?
  - A. No. sir.
- Q. Didn't you use to leave there at 1 or 2 o'clock in the afternoon, when you got up?
- A. No, sir; we would leave there about 7:30 in the morning to go to work.
- Q. Before Miss Effie Hoke came, you had ten or twelve drinks?
  - A. Yes, sir.
- Q. How many drinks you had after she came you don't know?
  - A. No, sir.
- Q. Do you mean to tell us that your mind is in condition to remember the conversation you had there?
  - A. Yes, sir.
- Q. After all you drank, you can remember what took place?
- A. I remember everything while Mr. Economides and sister and I were drinking; after we had so many drinks, I don't remember anything.
- Q. The conversation you say Mr. Economides had with you when he said it was a nice place, and that she would treat you like a mother, that took place after Miss Effie Hoke got there?
  - A. Yes, sir.
  - Q. Do you mean to tell me you can remember that?

- A. Yes, sir.
- Q. After all the drinks you had, you can remember that?
  - A. Yes, sir.
  - Q. Do you remember what you said about going?
- A. I didn't want to go at first, and she said "It is a nice place and the trip will do you good." She said to send for my sister, and I said "I don't want to send for her," and she put fifty cents on the table and said "Go after your little sister."
- Q. Didn't you start the conversation by wanting to leave New Orleans?
  - A. No, sir.
- Q. You can remember that, after all the drinks you had?
  - A. Yes, sir.
- Q. You remember that Mr. Economides told you you might not like the place, and had better make arrangements if you did not like it to come back?
  - A. Yes, sir.

## Questioned by Mr. Greer:

- Q. I want to see if I understood you correctly. You stated that on the morning of your arrival at Beaumont, when you got to this house you were there informed or discovered the character of the house?
  - A. Yes, sir.
  - Q. Is that correct?
  - A. Yes, sir.
- Q. At that time did you and your sisters talk it over as to the character of the house?
  - A. Yes, sir.
  - Q. So all three of you knew it at that time?
  - A. Yes, sir; we all three wanted to leave.

## CROSS-EXAMINATION BY DEFENDANT, EFFIE HOKE.

## Questioned by Mr. Howth.

Q. At the time you left New Orleans you didn't know what kind of house you were going to?

A. No, sir.

Q. You tell the jury on your oath that when you left New Orleans you had no idea what kind of place you were going to?

A. Yes, sir.

Q. Is that as true as the balance of your testimony?

A. Yes, sir.

Q. Why is it you strongly objected to your little sis-

ter, Gertrude, going along?

A. She was staying with my aunt, and she wanted to be on the go somewhere to the shows or somewhere, and I wanted her to stay at my aunt's.

Q. Is that the only reason you didn't want Gertrude

to go along?

- A. Yes, sir; that she was young and foolish, and my aunt could do more with her.
- Q. The only reason was because she was staying with your aunt?

A. Yes, sir.

- Q. It was not because you didn't want her to go into a house of prostitution?
  - A. I didn't know the kind of house I was going into.
- Q. You thought she was running a train school for young ladies?

A. No, sir; she said a private boarding house.

- Q. Did she tell you she was going to bring you there and board and clothe you and take care of you?
- A. She says: "If you stay here and work for \$5 a week you will never have any decent clothes or diamonds or anything," and she says: "Over there the salesgirls, the working girls, make a good salary."

- Q. Did you tell anyone when Effie was trying to get you to come to Beaumont that she told you you ought to go and live in a house of prostitution and apply the vocation of a prostitute, because working girls were not as much respected as sporting girls and did not have diamonds and dress as well; did you ever make that statement to anyone that working girls were not as much respected as sporting girls, and did not have the fine clothes and diamonds that sporting girls had?
  - A. No, sir; I did not.
  - Q. You knew Pauline Wilson at that time, didn't you?
  - A. Yes, sir.
  - Q. How many times had you met Pauline before that?
  - A. Yes, sir.
  - Q. How many times?
  - A. About three times.
  - Q. Where did you meet her.
  - A. At Economides' place.
  - Q. You knew she ran an assignation house?
  - A. Yes, sir.
  - Q. You met her before that and drank with her?
  - A. No, sir; I didn't drink with her.
- Q. You were always friendly with her when you met her?
- A. I never had much to say to her; just pass the time of day and pass on.
- Q. You knew she frequented that place at the time you did?
  - A. Yes, sir.
  - Q. You met her?
  - A. Yes, sir.
- Q. You came back time and time again, knowing you might meet her?
  - A. I didn't care anything about it.
- Q. The fact when you decided to go to Economides' at these various occasions that you might meet Pauline never feased you a bit, did it?

A. No, sir.

- Q. You say that never deterred you from going, did it?
  - A. No, sir.
- Q. You did not object to meeting and associating with ladies that kept assignation houses?
  - A. I don't remember associating with any.
- Q. You there met her; you were there in the saloon where she was and you didn't object to that, did you?
  - A. The first time I ever met her-
- Q. Answer the question: You never objected to associating with her and being around where she was?
  - A. No, sir.
- Q. Isn't it a fact that you used to visit Pauline's assignation house, and that is where you met Pauline?
  - A. No, sir.
- Q. Do you state to the jury, on your oath, and is it as true as all your testimony, that you never visited Pauline's place and that you never met men there for that purpose?
  - A. No, sir.
- Q. Did you ever visit any assignation house in New Orleans before you met Pauline?
  - A. No, sir.
  - Q. Did you after you met Pauline?
  - A. No, sir.
  - Q. You did not?
  - A. No, sir.
  - Q. Where did you go for that purpose?
  - A. I didn't go anywhere to meet men.
  - Q. You didn't go anywhere?
  - A. No, sir.
  - Q. You had some place where you met your friends?
  - A. They came to see me.. I had a friend at the hotel
- Q. You would go to the hotel to meet your gentleman friend?
  - A. Yes, sir.

- Q. Your place of assignation in New Orleans was at a hotel?
  - A. I had that friend.
- Q. Is it correct that your place of assignation was a hotel?
  - A. Yes, sir.
  - Q. What hotel?
  - A. The St. Charles.
  - Q. What other hotel?
  - A. I had just one friend at the St. Charles Hotel.
  - Q. That is where you met your friend?
  - A. Yes, sir.
- Q. You knew the keepers of the assignation houses in New Orleans?
  - A. Yes, sir; some of them.
- Q. Give us the names of the different ladies in New Orleans that run assignation houses; tell us the names of all you can now remember?
  - A. Miss Pauline and Carrie Bryant.
  - Q. You had known Pauline a year?
  - A. No, sir; not over four months.
- Q. You had known her four months before you came to Beaumont?
  - A. Yes, sir.
  - Q. How long had you known Carrie Bryant?
  - A. About the same time.
  - Q. She runs an assignation house?
  - A. Yes, sir.
  - Q. Where did you meet her?
  - A. At Billie Seebold's.
  - Q. What kind of place does he run?
  - A. Private wine rooms?
  - Q. How often had you visited Billie Seebold's place?
  - A. Maybe once or twice a month.
- Q. Did you meet the same friend at Billie Seebold's place that you slept with at the St. Charles Hotel?
  - A. No, sir.

- Q. You met different men?
- A. I didn't go there to meet men.
- Q. You did meet them there?
- A. We didn't go there and drink with men.
- Q. You did not go there to meet any particular men you knew, but when you would go there you would meet men?
  - A. Yes, sir; sometimes there would be men there.
- Q. You knew that men haunted those places for the purpose of meeting girls, and that girls went there to meet the men?
- A. Some girls go there for that purpose and some to
- Q. When you went there you knew you would likely meet some men there?
  - A. Yes, sir.
  - Q. Did you go there to drink or meet men, or both?
- A. We went there to drink; sometimes we would get a dozen girls and go there and drink and talk and laugh and go to the picture shows.
- Q. Would you be introduced to the men you would drink with?
  - A. Yes, sir.
- Q. Sometimes you would drink with them after being introduced?
  - A. No, sir.
  - Q. Who would introduce them?
- A. Maybe there would be a friend in the crowd that knew a man friend in the crowd, and we would be introduced that way.
  - Q. You would be introduced in the wine room?
  - A. Yes, sir.
- Q. It was the habit of the frequenters of the wine rooms to introduce each other, so that everybody in the wine room would become acquainted?
  - A. Yes, sir.

- Q. That was the universal habit in all the wine rooms in New Orleans?
  - A. Yes, sir.
  - Q. It was the habit?
  - A. Yes, sir.
- Q. Now, what other wine rooms in New Orleans did you frequent?
  - A. Billie Seebold's and Economides' is all.
- Q. Do you know Jack Robertson's place, called the Hay Market?
  - A. Yes, sir.
  - Q. You have been there?
  - A. No, sir; I have passed there.
  - Q. You have never been to Jack's place?
  - A. No, sir.
- Q. Have you been to Orchard's wine room in New Orleans?
  - A. No, sir.
- Q. Do you know the keepers of any other assignation houses in New Orleans except Pauline and Carrie Bryant?
  - A. No, sir.
  - Q. Where did you meet Carrie Bryant?
  - A. At Billie Seebold's.
  - Q. Your sister would go on these trips with you?
  - A. Yes, sir; Florence, the oldest one.
  - Q. And Gertrude?
  - A. No, sir; Gertrude stayed with my aunt.
- Q. There were three sisters—Florence, Gertrude and Annette, yourself.
  - A. Yes, sir.
- Q. Did you stay in New Orleans at any time without working for anyone?
  - A. Yes, sir; I stayed with my aunt.
  - Q. What is your aunt's name?
  - A. Mandy Baden.
  - Q. Why does it take you so long to think of her name?

- A. I don't want to give her name out.
- Q. Mandy Baden?
- A. Yes, sir.
- Q. Where does she live?
- A. On Tulane Avenue.
- Q. Any other place; think for a long time and see if you can think of your aunt's address?
- A. I can not think of the address right now; it is on Tulane and Banks.
- Q. Is it possible you lived at your aunt's house and don't know her address?
- A. It is on Tulane and Banks, I don't remember the number.
  - Q. How long did you live there?
  - A. I guess about three months.
- Q. What three months did you live there; during what three months?
  - A. After I quit working at Maison-Blanche.
- Q. Was it July, August, January, February or March?
  - A. I went to New Orleans two years ago in June.
- Q. You can not tell us what three months you stayed at your aunt's house?
  - A. December, January and February.
  - Q. What year?
  - A. 1910.
  - Q. What does your aunt's husband do?
  - A. He is a carpenter.
  - Q. What is his name?
  - A. J. G. Baden, John Baden.
  - Q. What is his middle name, what is the G. for?
  - A. John Gauley.
  - Q. How old a man is he?
  - A. About 26.
  - Q. How old is Mandy Baden?
  - A. 23.
  - Q. She is your aunt?

- A. Yes sir.
- Q. Your mother's sister?
- A. No sir, J. G. Baden is my father's brother.
- Q. J. G. Baden is your father's brother?
- A. Yes sir.
- Q. Baden is not your real name is it?
- A. Yes sir.
- Q. Isn't that just one of your stage names?
- A. When I came to Texas I went by the name of Havs.
- Q. Did you travel by the name of Hays in New Or-
  - A. No sir.
- Q. Did you ever tell anyone in New Orleans your name was Hays?
  - A. No sir.
  - Q. Is your name Jerdone?
  - A. No sir.
  - Q. Did you ever go by that name at any time?
  - A. No sir.
  - Q. At any place?
  - A. No sir.
  - Q. How long has Mr. Baden lived in New Orleans?
- A. He moved there about three years ago from Tennessee.
  - Q. What place in Tennessee?
  - A. I think it was South Second Howard Avenue.
  - Q. Does he live close in town?
  - A. No sir, that is away out.
  - Q. How far out in town?
- A. I don't know exactly, about thirty blocks out of town.
- Q. Did they have street cars running from the Baden home to where you were working?
  - A. Yes sir.
- Q. How long would it take a street car to go from Baden's house to the business part of New Orleans?

- A. Two minutes.
- Q. Did they have any children?
- A. Yes sir, two.
- Q. Little children?
- A. Yes sir.
- Q. They were fond of you?
- A. Yes sir.
- Q. You liked them and liked to be with them?
- A. Yes sir.
- Q. You lived in that city two years and only lived with them three months?
  - A. Yes sir.
  - Q. You never had any falling out of any sort?
  - A. No sir.
- Q. They lived close enough in town to enable you to live with them and go to your work?
  - A. Yes sir.
  - Q. Why didn't you stay with them?
  - A. I got tired.
- Q. You had to be good when you stayed out there, and that didn't suit you, did it?
- A. I was just like I always was. I was just as good as when I staved there.
- Q. You didn't like to stay at Baden's house because you could not sport around and stay up until two or three o'clock in the morning and go to assignation houses?
- A. No sir, because sister Gertrude wanted to stay there, and I knew it would be too much for both of us to impose on my aunt and I left.
- Q. You could pay your aunt as much board as any-body else?
  - A. Yes sir.
  - Q. Is that the only reason you left your aunt's?
  - A. Yes sir.
  - Q. Because your sister came there to live also?
  - A. Yes sir.

- Q. When did Gertrude come to live in New Orleans?
- A. Six or seven months ago.
- Q. You lived there in December, January and February?
  - A. Yes sir.
- Q. You lived in that city a year before you went out to live at your aunt's?
  - A. Yes sir.
- Q. And then lived there three months and left, and then you stayed in that city how long after leaving your aunt's and between the time you left your aunt's and the time you came to Beaumont?
  - A. I don't know exactly.
- Q. Did you have a venereal disease when you came here?
  - A. No sir.
  - Q. Which one of your sisters had it?
  - A. None of them.
  - Q. Are you sure of that?
  - A. Yes sir.
- Q. Don't you know that Dr. Reagan treated you, one of you, as soon as you got to the house?
  - A. No sir, there was no doctor in the house.
  - Q. Did you go to his office for treatment?
  - A. No sir.
  - Q. Did you have that disease?
  - A. No sir.
  - O. Never have had it?
  - A. No sir.
- Q. How long had you been meeting men at hotels for assignation purposes in New Orleans; how long had you been doing that?
  - A. About eight months.
- Q. Eight months before you came to Beaumont you had been doing that?
  - A. Yes sir.

- Q. Did you get pay for it; did you receive money for it?
  - A. Yes sir, sometimes.
  - Q. Didn't you get pay for it?
  - A. Yes sir, sometimes.
- Q. Sometimes they would pay you and sometimes they would fail to pay you?
  - A. Yes sir.
  - Q. Is that correct?
  - A. Yes sir.
- Q. Sometimes the men you would meet at hotels and stay with for prostitution purposes would pay you, and sometimes they would not pay you?
  - A. Yes sir.
- Q. The reason you met them there was to get the money, is that the reason?
  - A. No sir.
  - Q. Was it because you liked to go for that purpose?
  - A. We would have a drink and talk.
- Q. Did you go to these hotels where you met men for the purpose of getting a drink, or go there for assignation purposes?
- A. Half of the time we would have lunch together and drink.
- Q. That is a mere incident; I speak of the money for which you would go to the hotel to meet these men?
  - A. I had plenty of friends there.
- Q. I am trying to find out the object; did you go there because you liked to do those things, or go there for the money that was in it, or both?
- A. Plenty of times I would go there just for pasttime and to drink and eat.
  - Q. You did those things for past-time?
  - A. Yes sir.
  - Q. Time was hanging heavy on your hands?
- A. I would get off from work and go and have lunch and have drinks.

- Q. You would feel lonesome and want something to do to pass away the time?
  - A. Yes sir.
- Q. And go to the hotel and meet men and sleep with them?
  - A. Sometimes I would, yes sir.
- Q. Is it not a fact that you stayed in the hotels and assignation houses and walked the streets and were known as a street-walker and frequented assignation houses and met any and all men that wanted to meet you, and stayed with them for money and made that your business in that city?
  - A. No sir.
  - Q. Is not that a fact?
  - A. No sir.
- Q. How much money did the men there generally pay you for the use of your person?
  - A. I think \$5.00 or \$10.00.
- Q. Is it not a fact that they never paid you at any time over a dollar in that city?

Mr. Dailey: I object to that evidence. I think it is going too far.

Objection sustained.

Defendant except.

- Q. Is it not a fact that you heard that girls in Beaumont got more pay than in New Orleans?
  - A. Yes sir, more money to be made in Beaumont.
- Q. More money to be made in the sporting business in Beaumont than in New Orleans?
  - A. No sir.
  - Q. More money to be made at what?
  - A. More money here.
- Q. In what line of business did you hear there was more money to be made here?
  - A. Girls and men could make more money here than

in Louisiana and salesladies could get \$10.00 or \$15.00 a week.

- Q. Did you ever hear that girls in the sporting business got more money here than over there?
  - A. No sir.
- Q. Now, those wine rooms and hotels that you went to, did your sister Florence go with you?
  - A. Sometimes.
  - Q. She is younger than you?
  - A. Yes sir.
  - Q. How old is she?
  - A. A year and nine months younger than I am.
  - Q. You are how old?
  - A. 20.
  - Q. How old is Gertrude?
- A. A year and nine months younger than Florence; she is 17.
  - Q. All three of you girls are full sisters?
  - A. Yes sir.
  - Q. The same mother and the same father?
  - A. Yes sir.
  - Q. Is it not a fact that Gertrude is no relation to you.
  - A. No sir.
  - Q. Isn't it a fact that she is not your sister?
  - A. She is my sister.
- Q. Did you ever tell Mrs. Grinage she was not your sister?
  - A. No sir.
  - Q. Ouida Landry, what is her name?
  - A. Halcomb.
  - Q. Is she any relation to you?
  - A. No sir.
  - Q. Did she come over with you at the time you came?
  - A. No sir.
  - Q. She was already here?
  - A. Yes sir.
  - Q. Did you know her over there?

- A. Yes sir.
- Q. Was she a working girl?
- A. She did work awhile.
- Q. How long did she work?
- A. Now and then; she would work a month and quit a month; she said she would work any time she got ready; she would work a month and quit. She stayed at an assignation house all the time.
  - Q. A sporting house, was it not?
  - A. A private assignation house.
  - Q. Just a private assignation house?
  - A. Yes sir.
  - Q. A private place for friends and strangers?
  - A. Yes sir.
  - Q. You knew Ouida over there?
  - A. Yes sir.
  - Q. How did you get acquainted with her?
- A. I met her at Billie Seebold's at the time I met Carrie Bryant.
  - Q. What is the name of the other girl?
  - A. Theresa.
  - Q. You knew her over there?
  - A. No sir, I did not.
  - Q. When was it you got acquainted with her?
- A. The first time I ever saw her was that night at Miss Pauline's.
  - Q. Did you know any other sporting women?
  - A. No sir.
  - Q. You didn't.
  - A. No sir.
  - Q. Ouida is the only one you knew over there?
  - A. Yes sir.
- Q. I will ask you if it is not a fact that you and Ouida used to solicit men to stay with you; if you did not hang around the depot—

Mr. Dailey objects as irrelevant and immaterial. Objection sustained.

Mr. Howth: We except to the ruling of the court in refusing to permit us to ask this witness if she did not in company with Ouida Landry, in the City of New Orleans, prior to coming to Beaumont, engage in the business of soliciting the patronage of men for the purpose of prostitution, and if she did not follow that vocation around the passenger depot and on the streets.

- Q. You say you came here, and as soon as you got in the house Ouida Landry told you that you were in a sporting house?
  - A. Yes sir.
- Q. She was the first one that spoke and said, "Annette, do you know you are in a sporting house?"
  - A. Yes sir.
  - Q. What was it you said?
- A. I said that Miss Effie said it was a private boarding house.
  - Q. Why didn't you get right up and go?
- A. I went down and told Miss Effie I didn't want to stay there, and she said, you owe me, Annette, and can not leave until you pay me." I did that after she came the next morning.
  - Q. She didn't come over with you?
  - A. No sir.
  - Q. How long was it before she got here?
- A. We came that morning and she came the next morning.
- Q. When you found out it was not a sporting house Effie was not there to keep you there?
  - A. No sir.
- Q. There was nothing to prevent your leaving that house?
- A. We went and talked it over with the girl she had for a house-keeper.
- Q. You say you got here that morning and as soon as you got in the house Ouida Landry told you you were in a sporting house, and you didn't know you were com-

ing to a sporting house, and didn't want to go to a sporting house,-was there anything in the world that

prevented your leaving the house immediately?

A. I talked it over with the house-keeper and she . said I would be arrested. I told this girl I would not stay, and she said "If you take your grip, I will 'phone for an officer." That was Lucile.

Who is Lucile? Q.

- A. She is Pauline Wilson's daughter.
- Q. Lucile is not here?
- A. No sir, but she was.
- Q. You know she is not here?
- A. No sir, she is not.
- Q. Where is Lucile?
- A. Miss Pauline told me yesterday she was in Chicago.
- Q. Now, I am asking you if there was anything to prevent your leaving the Monday after you got in the house and found it was a sporting house?
  - A. Well, all us girls got together—
  - Never mind that.

The Court: You answer his question and then if you want to make any explanation, you can make it.

- That Monday morning you got there and found it was a sporting house, was there anything in the world to prevent your leaving?
- A. All the girls got together and said we would leave. and Lucile said, "I will 'phone an officer and you will be arrested; you owe Miss Effie this bill, and this six dollars and you will be arrested."
- Q. Do you know how she found out you owed Effie a bill?
- We told her who paid our way over here and Theresa told her Effie paid our way over here.
- Q. You had not told her about the six dollars Effie claimed you owed Economides?
- A. I told her Economides wanted us to tell Effie we owed six dollars.

- Q. You told Lucile that?
- A. Yes sir.
- Q. You told her you owed Effie this \$8.35?
- A. Yes sir.
- Q. Was there anything in the fact that you owed her a little why you could not leave there; did that prevent your leaving?
- A. Yes sir, she said we would get arrested and get into trouble, and I said I would stay and see her.
- Q. Didn't you know they could not arrest you for a debt?
  - A. I didn't know.
  - Q. Did you take any pains to find out about that?
  - A. I could not find out from anyone.
  - Q. Did you try?
  - A. No sir.
  - Q. Did you ask anyone?
  - A. No sir.
- Q. Whether they could keep you there and put you in jail because you owed a debt?
- A. I asked Ouida, and she said she thought they could.
  - Q. Did you ask anybody else?
  - A. No sir.
  - Q. You have been to school?
  - A. Yes sir.
  - Q. How long did you go to school?
  - A. From the time I was six until I was eighteen.
  - Q. You went to school twelve years?
  - A. Yes sir.
  - Q. You have been around the country some?
  - A. Yes sir.
  - Q. You have been to St. Louis, have you?
  - A. No sir.
  - Q. To Chicago!
- A. No sir, I never was out of Louisiana until I came to Texas.

- Q. Have you been to Shreveport?
- A. No sir, just my home town and New Orleans.
- Q. How big is your home town?
- A. I don't know exactly, I guess about five thousand.
- Q. You went to New Orleans and worked in different stores there?
  - A. Yes sir.
  - Q. And went to Pass Christian?
  - A. Yes sir.
  - Q. Who did you stay with there?
  - A. My aunt, Mrs. W. T. Richardson.
- Q. Didn't you say, in your direct examination, that when you got to Effie's house and was informed it was a sporting house, or a house of prostitution that you want to go back a couple of days after you got there?
  - A. Yes sir.
  - Q. A couple of days after you got there?
  - A. Yes sir.
- Q. It took you two days to make up your mind you wanted to leave after you found it was a sporting house?
  - A. I wanted to leave the first day.
- Q. Didn't you on your direct examination say you found it was a sporting house as soon as you got there, and a couple of days after you wanted to leave, after that?
- A. I wanted to leave right then and then in a couple of days I wrote Conomides to send me money.
- Q. Did you say on your direct examination that you found it was a sporting house as soon as you got there, and a couple of days after that you wanted to leave?
  - A. Yes sir.
- Q. Now, is it not a fact that when you all got there you did not have many clothes and times had been rather hard in New Orleans; that is true, is it not?
- A. We just had a suit case. My trunk was at my aunt's.

- Q. Times had been rather hard with you. You were poorly clad and did not have many clothes?
  - A. They were not fine, no sir; just plain clothes.
- Q. Is it not a fact that the morning Effie got there she sent Lucile to Jones' place, the Fashion, and got you a lot of clothes?
  - A. Yes sir.
  - Q. How many dresses did she buy you?
  - A. She just bought some underwear.
  - Q. Did she buy you some shoes?
  - A. No sir.
  - Q. Hats?
  - A. No sir.
  - Q. Didn't she buy you any hats?
  - A. No sir.
  - Q. Nor dresses.
- A. No sir. The only things she bought was a little underwear that came to six dollars.
- Q. How long was it after you came here that you tried to get away and take the clothes she had bought for you and had not paid for?
  - A. Not quite two weeks.
- Q. You still owed her for the clothing she had bought you, didn't you?
  - A. No sir.
    - Q. Isn't that true?
    - A. No sir.
    - Q. You were owing her a board bill?
    - A. I owed her ten dollars and paid it.
    - Q. Didn't you owe her money?
    - A. No sir.
- Q. Isn't it true that you tried to leave early in the morning before she was awake, and beat her out of the money you owed her?
  - A. No sir.
  - Q. Did you ever tell anyone you tried to slip out of

the house while she was asleep to avoid paying the debt you owed her?

- A. No sir.
- Q. And that she caught you in the act of doing it and had you arrested?
  - A. No sir.
- Q. And that that made you mad and you swore vengeance against her?
  - A. No sir.
- Q. Is it not a fact that you tried to slip out of the house while she was asleep to avoid the payment of the debt which you owed her?
  - A. No sir.
- Q. What was the object in slipping out of the house while she was asleep?
- A. I didn't get out. I owed her ten dollars and paid it.
- Q. Did you not make arrangements to slip out of the house while she was asleep to avoid the payment of your debt?
- A. No sir; we wanted to get out but we did not owe her. I paid her ten dollars, but she said I didn't.
- Q. You had made arrangements to slip out in the early morning?
  - A. Yes sir.
- Q. To avoid the payment of the debt she claimed you owed her?
  - A. Yes sir.
- Q. The other two girls had made their escape and the hack driver came back to get you when she was aroused?
  - A. Yes sir.
- Q. You never told anybody about her trying to persuade you to come to Beaumont until she caught you with the goods trying to get away early in the morning?
  - A. No sir, I told a couple of fellows.
  - Q. Give us their names?

- A. They were strangers, I didn't know them.
- Q. Give us the name of any person you told that?
- A. They would not want me to give their names.
- Q. No matter whether they want you to or not; just give their names?
  - A. One was Collins.
  - Q. What Collins?
- A. I don't know his other name. He works for his father in some office.
  - Q. When did you tell him about that?
  - A. Three or four days after I got here.
  - Q. Who else did you tell?
  - A. Preston from Sour Lake; that is his last name.
  - Q. What kind of looking man is he?
  - A. He is about 22.
  - Q. Did you tell anyone else?
  - A. I told strangers, but I don't know their names.
- Q. You never applied to the authorities and told them about it, did you, the County Attorney or the Sheriff?
  - A. No sir.
- Q. You never went to the County Attorney, Justice of the Peace, Mayor or Sheriff and told them anything about it until after Effie had you arrested for stealing your clothes away?
  - A. No sir.
  - Q. You never did?
  - A. No sir.
- Q. The reason you told on her was because you were mad at her for stopping you from going, isn't that true; you got mad at her and that was the reason?
- A. I went to the court house with Ouida and my sister.
  - Q. You never told this instance to any officer before?
  - A. No sir.
- Q. Now, I will ask you if you did not tell it to the officers because you were angry with Effie?

- A. No sir, I was not angry with Effie; I went to the court house with Ouida and my sister; I was not angry.
  - Q. That did not make you angry at all?
  - A. No sir.
- Q. I understood you to say that you stayed at Economides and drank mixed drinks until you got in the taxicab and went to Economides' place and then went directly to the depot?
  - A. Yes sir.
- Q. Are you as sure of that as everything else you have testified to?
  - A. Yes sir.
- Q. Where did you get the suit case you brought over here?
  - A. It was mine.
  - Q. Where did you get it?
- A. I sent my suit case that Sunday afternoon,—it was too late to go to my boarding house,—and I sent my suit case down to Anna's, and I went to get my suit case Monday evening when I passed Economides; I had started to the house to get it when I passed Economides. I went to the theatre Sunday evening.
  - Q. You got to the city Sunday evening?
  - A. Yes sir.
  - Q. Instead of going home you went to the theatre?
  - A. Yes sir.
  - Q. Where did you leave your suit case?
  - A. I left it at Anna's house.
  - Q. Where did she live; how far from the depot?
  - A. Not many blocks.
  - Q. Did Anna live closer in than you?
  - A. Yes sir, in a half block of Economides.
- Q. That is a sporting neighborhood where you left that suit case when you came in?
  - A. It is a private assignation house.
- Q. When you got in that Sunday afternoon, you went to an assignation house and left your suit case there?

- A. Yes sir, left it there.
- Q. You got off at the depot fresh from the country; you had been to the country?
  - A. Yes sir.
- Q. You had been out to visit your aunt in the country?
  - A. Yes sir.
- Q. You had been out there two or three weeks and came back into the big city and went straight to the assignation house with your suit case?
  - A. No sir, I sent the suit case down there.
- Q. You sent it there and then you went to the theatre?
  - A. Yes sir.
- Q. Who did you go to the theatre with, did you go with Ouida?
  - A. No. sir.
  - Q. Did you go with Anna?
  - A. No sir, I went with Florence.
- Q. Did you not say in your examination that the only assignation houses you knew anything about were Carrie Bryant's and Pauline Wilson's?
  - A. She was a girl.
- Q. Didn't you say the only ones you knew of were Carrie Bryant's and Pauline Wilson?
  - A. Yes sir.
  - Q. Now, we find you knew about another place?
- A. I did not know the landlady at that place; I knew the girl Anna.
  - Q. You knew the woman who ran that place?
  - A. No sir, I did not know her; I knew the girl, Anna.
  - Q. Did Ouida live at that place?
  - A. Yes sir, at one time.
- Q. Was Anna just one of the girls that stayed at that place or did she run the place?
  - A. She was a girl that stayed there.

- Q. Did you leave the suit case there because Ouida stayed there?
- A. Yes sir, I knew Ouida and sent the suit case there by a little boy.
- Q. You don't know the name of the person that ran that place?
  - A. No sir.
  - Q. It was not run by Pauline or Carrie Bryant?
  - A. No sir.
  - Q. You knew it was an assignation house?
  - A. Yes sir.
- Q. Did your sister Florence meet you at the train that night?
  - A. Yes sir.
  - Q. What time did the train come in?
  - A. Eight o'clock.
  - Q. What train did you come into the city on?
  - A. I forget the railroad now.
  - Q. You don't know the railroad?
  - A. No sir.
  - Q. You got there at eight and your sister met you?
  - A. Yes sir.
  - Q. Did you telephone her to meet you?
- A. Yes sir, I 'phoned her and told her I was coming back and to meet me at the train.
  - Q. Who suggested going to the theatre?
  - A. I did, on the train.
  - Q. Was she on the train with you?
- A. No sir, I had a friend on the train with me from this town.
  - Q. You had a gentleman friend with you?
  - A. Yes sir.
- Q. After you went to the theatre you went to the wine room and had lunch?
- A. No sir; we left the theatre and went to the boarding house a block from Mr. Economides and stayed there, sister Florence and I.

- Q. What became of your friend?
- A. We left him.
- Q. You did not go to the assignation house where you sent your grip?
  - A. No sir, I went to a boarding house.
  - Q. You left your grip at an assignation house!
  - A. Yes sir.
  - Q. Why didn't you send your grip where you were

going to stay all night that night?

- A. I didn't want to go to Mrs. Grinage's; she always got angry if we got in at 11:30 or 12:00 o'clock, and did not know exactly where to stay.
  - Q. Were you staying at Mrs. Grinage's at that time?
  - A. When I left for the country I was.
- Q. When you got back from the country you were staying at Mrs. Grinage's?
  - A. Yes sir.
- Q. You tell the jury that you were at her house in November, 1910†
  - A. Yes sir.
- Q. Why didn't you send your grip to her house straight from the depot?
- A. I didn't like her and I was not going back; when we would come in at 11 o'clock she would always have something to say.
- Q. Did you know about this boarding house where you stayed all night at the time you got off the trainf
  - A. Yes sir.
- Q. Why didn't you send your grip to that boarding house?
  - A. I didn't know exactly where I was going to stay.
- Q. You had an idea you would stay at the assignation house and sent your grip there for that reason?
- A. No sir, I was not going to stay there; I thought I would go to the hotel; I told my sister we would go to the boarding house.
  - Q. Did you work the next day, Monday!

- A. No sir.
- Q. What time did you get up the next day?
- A. I don't know; it was about 12 o'clock.
- Q. About 12 o'clock?
- A. Yes sir.
- Q. What did you do when you got up?
- A. Taken in the picture shows and taken in the theatres.
  - Q. You went to the theatres and picture shows?
  - A. Yes sir.
  - Q. Did you go with anybody?
  - A. No sir, just Florence and I.
  - Q. Florence was not working?
- A. No sir, not that day; she had to work that night as cashier at the Victor theatre.
  - Q. What street is that on?
  - A. Canal Street.
  - Q. Did you have any drinks that afternoon?
  - A. No sir.
- Q. Where did you have supper after the theatre Sunday night?
  - A. We didn't have supper.
  - Q. Did you have any drinks?
  - A. No sir.
  - Q. Where did you leave Florence that night?
- A. That night Florence did not go to work; she told them I was in town and she wanted to go to the show and another girl worked in her place.
- Q. You and Florence went to the theatre Sunday
  - A. Yes sir.
- Q. You went to the theatres the next day after 12 o'clock?
  - A. Yes sir.
- Q. Where did you and Florence separate Monday afternoon!

- A. We did not separate at all. I was passing Economides to go and get my grip and Florence was with me.
  - Q. What time did you start for your grip?
  - A. About five o'clock.
- Q. You and Florence were going down to get your grip?
  - A. Yes sir.
  - Q. What time of day was it?
  - A. It was about a quarter of five, I guess.
- Q. How far is it from Pass Christian to New Or-
  - A. 65 miles.
- Q. You had the same clothing on the next day that you were wearing the day before, and didn't have a change of clean clothes that night, and didn't have any the next day and walked around going to the theatre when your grip was in a half block of Economides' place, and in two blocks of Canal Street?
  - A. Yes sir, one block and a block from Canal Street.
  - Q. That is a main avenue or thoroughfare there?
  - A. Yes sir.
- Q. You say it was about five o'clock when you passed Economides place?
- Q. He sent for you to come back after you passed the place?
  - A. Yes sir.
- Q. You had gotten by the place and he sent a boy and told you to come back and you came back yourself?
  - A. Yes sir.
  - Q. That is correct?
  - A. Yes sir.
- Q. He told you he wanted you to meet a lady from Beaumont?
  - A. Yes sir.
- Q. Florence was not there while you were drinking; she was not there until Pauline came?
  - A. Yes sir, she was.

Q. Where did Florence go in the meantime?

A. She said, "You can go back if you want to; it is time for me to go to the picture show." She looked up and saw the clock and said "It is time for me to go to work."

Q. When you got in the taxicab and went to Pauline's place and to the depot, you went by Anna's and got your grip?

A. Yes sir.

Q. Where did Florence go to get her grip?

A. She didn't have any grip.

Q. Gertrude didn't have a grip?

A. No sir.

Q. You were the only one that had a suit case?

A. Yes sir.

Q. Do you know whether Effie bought any clothing for the girls after they got here?

A. No sir, she never.

Q. You know she did not?

A. Yes sir.

Q. You are the only one she bought any clothes for?

A. Yes sir.

Q. Yet they came here without any at all?

A. We had enough underwear and a change of dresses in the suit case.

Q. All three of you?

A. Yes sir.

Q. Both of your sisters and yourself?

A. Yes sir.

Q. Now, I will ask you if it is not a fact that two or three weeks after you had gotten away and may be a month, you wanted to go back to New Orleans, and if Hazel Hoke, Effie's sister, did not tell you she would give you the money to pay your way back to New Orleans, if you wanted to go?

A. No sir.

- Q. Is it not a fact that you have stated to Mr. Martin, a police officer, and to Effie Hoke and W. H. Huck and others, and in their presence and hearing that the reason you girls did this thing was to get even with Effie for having you arrested for trying to take your clothes away and beat her out of the debt you owed her?
  - A. No sir.
- Q. Is it not a fact that Gertrude said in your presence that she did not want to bother Effie, that you girls were all sporting girls in New Orleans, but that you all were ribbed up, used the words "ribbed up" all the time?
  - A. No sir.
- Q. Didn't you say that at Effie's saloon and at the corner across from Effie's house at Huck's saloon?
  - A. No sir.
- Q. Didn't you make that statement immediately after the arrest !
- A. Gertrude said she was 18 and wanted to stay there, is what the officers told me.
- Q. Didn't you hear her also say that all you girls were sporting girls over there and came here because you understood there was more money to be made here, and came of your own free will?
- A. Gertrude told the officer that; that is what Effie made her say; the officer told me that Gertrude told him that.
- Q. Never mind what the officer told you; didn't you make this statement?
  - A. No sir.
- Q. You left Effie's house shortly after you were arrested, did you not?
  - A. No sir.
- Q. When did you leave there, just tell the jury when you left?
  - A. I left one evening, I don't remember the date.

Q. I mean permanently; when did you permanently leave her house?

A. I left to go to the office and she had me arrested for vagrancy and I never went back.

Q. Where did you go then?

A. To the Jefferson Hotel.

Q. What kind of place is that?

A. They knew we were coming there, and they told us we would have to keep quiet, that that was a decent hotel.

Q. Did the United Charities or Mothers' Club or any organization in Beaumont offer to pay your way back to your home?

A. No sir.

Q. Did they offer to take you out of the life you were leading if you wanted to get out of it?

A. No sir.

Q. Never tried to do it?

A. No sir.

Q. The matter had been given a great deal of notoriety at Beaumont?

A. Yes sir.

Q. Who paid your hotel bill at the Jefferson Hotel?

A. Ouida Landry.

Q. She had money?

A. Yes sir.

Q. How long did you stay there?

A. Four days, I believe.

Q. Where did you go from there?

A. To the Field's Hotel.

Q. How long did you stay at the Field's Hotel?

A. Two days.

Q. Where did you go to from there?

A. Houston.

Q. Where did you stay at Houston?

A. The Bristol Hotel.

- Q. That is a high class, highly respectable hotel, the Bristol Hotel?
  - A. Yes sir.
  - Q. You paid your bills there?
  - A. Yes sir.
  - Q. How long did you stay there?
  - A. Three weeks.
- Q. What did you do while you were at the Bristol Hotel?
- A. Ouida met a friend and I met a friend. Ouida is well acquainted in Houston.
- Q. She met a friend and introduced you to a friend and you acquired friends soon after you got there?
  - A. Yes sir.
  - Q. Florence and Gertrude were left behind?
  - A. Yes sir.
  - Q. Where did they go to?
  - A. We left them at the same hotel.
  - Q. They were at the Field's with you?
- A. No sir, they were at the Jefferson. Gertrude was at Effie's when Ouida and I were at the Jefferson.
  - Q. Gertrude and Florence left Effie's house?
  - A. Yes sir.
- Q. That was after Frank Townsend took them to some hotel.
- A. I don't know the name of the hotel; he told us he did.
  - Q. Was it a sporting house or hotel?
  - A. He told us it was a decent hotel.
- Q. Florence and Gertrude finally went back into a sporting house after staying out a month or two?
  - A. Yes sir.
- Q. Now, at Houston you and Ouida were stopping at a first class hotel and made friends?
  - A. Yes sir.
  - Q. Where did you go after staying there three weeks?
  - A. These friends were going to Galveston on busi-

ness, and we went to Galveston and stopped at the Tremont.

- Q. Registered as man and wife?
- A. Yes sir.
- Q. That is a decent hotel?
- A. Yes sir.
- Q. How long did you stay there?
- A. About a week. I taken sick after being there a week and was going to the hospital so they said strangers in Galveston had to pay a dollar a day, and I didn't have any money, and my friend was going back to Houston, and when I found I could not get in the hospital I went to Helen Berry's.
  - Q. What sort of place is that?
  - A. Like Miss Effie's.
  - Q. A sporting house.
  - A. Yes sir.
  - Q. How long did you stay at Helen's place?
  - A. Two months and a half.
  - Q. Where did you go to from there?
  - A. I came here Sunday evening.
  - Q. You have been here ever since?
  - A. Yes sir.
- Q. You went to Paris and testified before the grand jury?
  - A. No sir, I was sick in bed at the time.
- Q. You have been in a sporting house in Galveston ever since until you came here to testify?
  - A. Yes sir.

#### RE-DIRECT EXAMINATION.

Questioned by Mr. Dailey:

- Q. You were subpoenaed as a witness to appear before the United States grand jury?
  - A. Yes sir.
  - Q. You were too sick to go?

- Yes sir. A.
- How long had you been sick? Q.
- Two months. A.
- Q. How long had you been in bed?
- Two months. A.
- At this woman's house in Galveston? Q.
- Yes sir. A.
- They asked you if the reason you got up this case against these parties was not because you were mad at Effie Hoke; have you ever made any complaint to the United States authorities about this case; did you ever know anything about this case before you were subpoenaed to Paris?
  - A. No sir.
  - Q. You made no complaint to any Federal official?
  - A. No sir.
  - Q. Made no statement to any of them?
  - A. No sir.
  - Q. You were not a virtuous woman before coming to Beaumont, were you?
    - A. No sir.
  - Q. You say that Economides gave your sister Florence fifty cents for car fare when she started to go for Gertrude?
  - A. No sir, Miss Effie gave her fifty cents to go for Gertrude.
  - This woman Pauline, had you ever been in her Q. house?
    - No sir. A.
    - How long had you known Pauline? Q.
    - A. About four months.
    - Q. Where did you meet Pauline?
    - A. At Economides.
    - Q. Who introduced you to Pauline?
    - A. Economides did.
    - Q. Did Economides ever try to get you to go and live with Pauline?

Mr. Howth objects as leading.

Objection overruled.

Defendants except.

The Witness: Yes sir.

Q. Now, what did he state on that occasion?

Mr. Howth: They have not stated any time and place.

The Witness: He introduced us to Miss Pauline.

- Q. When was that, about what time?
- A. About six or eight months ago.
- Q. How long did you know her?
- A. About six months before I came to Beaumont.
- Q. Who were you talking to and where were you at the time the conversation took place?
  - A. In his wine room.
  - Q. Who was he talking to?
  - A. Florence and I and Miss Pauline.
  - Q. What was it he said?
- A. He asked if we did not want to go to live with Miss Pauline, and we told him no we could not because our people were there, and they would find it out, and he said they would not find it out if we would be quiet.
- Q. You told him your people were in New Orleans and they would find it out, and he said if you would live quietly there they would not find it out?
  - A. Yes sir.

Q. Anything else said in reference to that?

- A. Florence went down there one day by herself and Economides told me afterwards of the conversation they had. I told him then that I did not want to go into any assignation house anyway, and in the first place my people would find it out, and there would be trouble, and he said he would pay Florence and my week's board in advance.
  - Q. He would pay your board a week in advance?

A. Yes sir. He said she would take care of us. Florence went down there by herself and he 'phoned for Miss Pauline, and he was talking to her that way; I was not there.

Mr. Luzenberg objects.

The Court: What she says she learned from some other source the jury will disregard.

Q. When you got to Beaumont and entered this house, what were your duties that morning when Effie got back?

A. She told us how to act; that we would go down in the parlor, and she told us we had to stay with different kinds of men, all men that came in.

Q. Did she tell you the price?

A. Yes sir, and said to get the pay in advance, make them pay in advance and turn all the money we made over to her.

Q. Did you have intercourse with the different men that came to the house?

A. She said we had to pay the debt.

Q. Did you have intercourse with the different men that came to the house and receive the pay for it?

A. Yes sir and turned it over to Miss Effie Hoke.

Q. What was done with all the money you received for your services?

Mr. Luzenberg objects as immaterial and irrelevant.

Objection sustained.

Mr. Howth: I will ask the Court to withdraw from the jury the statement of the witness that she gave the money to Miss Effie and that Miss Effie directed her to do that.

The Court: I will let that remain with the jury.

Both defendants except.

## Questioned by Mr. Ownby:

- Q. Miss Annette, Mr. Howth interrogated you at some length as to why you ran away from that house, and always in his question he asked if you did not run away from that house to beat your bill you owed for the clothes she bought you; did you run away from that house to beat any bill at all or not?
  - A. No sir, I didn't owe anything.
- Q. You say you would give the money to her as you would make it?
  - A. Yes sir.
- Q. How many clothes did she buy you and how would you make settlements?
- A. She never bought any clothes at all, only six dollars; that is the only thing she ever spent.
- Q. Would you turn the money over to her and then have disputes about it when you would pay her the money?
  - A. Yes sir.
  - Q. Tell about that?
- A. Half the time she would be intoxicated and would not remember my turning the money in.
  - Q. She would say you didn't turn it in?
- A. Yes sir, she would say we didn't do it; when I left there I didn't owe anything but ten dollars and I paid that a few nights before the girls wanted to leave. She was intoxicated and did not remember it.
- Q. Why did you try to steal away; why didn't you just deliberately walk away; why were you trying to get out in that kind of way?
- A. Ouida and my sister slipped out; I was not going to slip out; I just took my hat and walked out.
  - Q. Why did the other girls slip out?
- A. Effie kept buying clothes for Ouida and she could not get out of it, and when I was out of debt and about fifteen dollars ahead, she sent and got a little old hat for me and charged me ten dollars for it. Peddlers

would come there and she would buy clothes, and we would go down stairs and she would say "Here are some clothes I bought for you" and charge us anything she wanted to.

- Q. You were going to leave and the others slipped out?
  - A. Yes sir.
- Q. You were not trying to slip away for the purpose of avoiding the payment of a debt?
  - A. No sir.

# RE-CROSS EXAMINATION BY DEFENDANT ECONOMIDES.

# Questioned by Mr. Luzenberg:

- Q. The Miss Wilson you speak of lives in New Orleans?
  - A. Yes sir.
  - Q. Do you know where her place was?
  - A. Yes sir.
  - Q. Was it an assignation house?
  - A. Yes sir.
- Q. You said something about Mr. Economides telling you to go there?
  - A. Yes sir.
  - Q. How long was that before you met Miss Hoke?
  - A. About three months I believe.
  - Q. How did that come about?
- A. We were there, and he said "Shucks, you all are just working yourselves to death for a little old five dollars a week, why don't you go down and stay at Miss Pauline's; she is along and would like to have girls there; go down and I will pay a week's board in advance for you."
  - Q. What time of night was that?
  - A. One evening about six-thirty.
  - Q. How late did you stay in his place that night?

A. I guess a half hour.

Q. You went there to drink?

We were sitting there talking and never drank. We went there to talk to Mr. Economides.

#### RE-CROSS EXAMINATION BY DEFENDANT EF-FIE HOKE.

#### Questioned by Mr. Howth:

- Q. How many times have you talked to Mr. Ownby and Mr. Dailey†
  - A. I have talked to them a good many times.
  - Q. How many times?
  - A. Three or four times; two or three at least.
  - Q. How long did you talk to them each time?
  - A. About a half hour I believe.
- Q. You have talked to them altogether about an hour and a half; both of these gentlemen were together when you talked?
- A. Sometimes one would be present and sometimes both.
- Q. Were the other girls present when you talked to them?
  - A. Yes sir, once or twice.
- Q. All the girls were present on one or two occasions when you talked to these gentlemen?
  - A. Yes sir.
- Q. You went over with them what your testimony would be in the presence of the others?
  - A. Yes sir.
  - Q. That is a fact, is it not?
  - A. Yes sir.

## FLORENCE BADEN (alias Hays) TESTIFIED FOR THE UNITED STATES AS FOLLOWS:

#### Questioned by Mr. Dailey:

Q. Do you know Annette Hays?

- A. Yes sir.
- Q. Is she your sister?
- A. Yes sir.
- Q. How old are you?
- A. 18.
- Q. Do you know Basile Economides?
- A. Yes sir.
- Q. Point him out?
- A. There he is.
- Q. Where were you living last November?
- A. I was in Beaumont last November.
- Q. When did you come to Beaumont?
- A. About the 14th of November.
- Q. Where were you living prior to that time?
- A. I was living in New Jrleans.
- Q. Do you remember the day you left New Orleans?
- A. Yes sir.
- Q. Where had you been the week before that?
- A. At Pass Christian.
- Q. Who with?
- A. My sister Annette.
- Q. Did you see Economides the day you came to Beaumont?
  - A. Yes sir, I was at his place.
  - O. When was the first time you saw him that day?
  - A. It was in the afternoon, two o'clock.
  - Q. Who were you with?
  - A. Annette.
  - Q. Where were you going?
  - A. I was going to work.
  - Q. Where were you working?
  - A. I was working in a moving picture show on Canal Street.
  - Q. Did you have any conversation with Economides that day?
    - A. Yes sir, we talked quite a while that day in the

afternoon. Annette was there first and afterwards I was there.

- Q. You were going to your place of business?
- A. Yes sir.
- Q. How did you happen to meet Econoimdes that day!
- A. We were passing there, Annette and myself, and he got Annette first, and I went to work and he got me afterwards.
  - Q. Did he say anything?
  - A. No sir, he just called us.
  - Q. Well, did you go back to where he was?
  - A. No sir, Annette went back.
  - Q. Where did you go!
  - A. I went on to work.
  - Q. Did you ever go back there that day?
  - A. Yes sir.
  - Q. How did you happen to go back there?
  - A. They sent for me and I went back.
  - Q. Who sent for you?
  - A. Economides.
  - Q. Who did he send?

Mr. Luzenberg objects.

The Court: I will permit her to state she got a message.

Objection withdrawn.

- Q. You got a message through a boy?
- A. Yes sir.
- Q. What was it?
- A. To come down to his place.
- Q. Did you go there?
- A. Yes sir, I went after a while.
- Q. Who was there!
- A. Annette and Economides.
- Q. What was said there; just go ahead and tell everything that was said there by Economides and your

sister and everything that happened after you got there?

A. After we got there we had a drink on Effie and Economides. We had been drinking and he said he had a friend he wanted us to meet, and he 'phoned for Miss Effie and she came down there, and we all had a drink.

Q. That was Effie Hoke?

A. Yes sir, and then we had another with Economides. We were drinking beer at the time, and afterwards we had a mixed drink, and then Economides said we had another sister younger, and wanted us to get her and Effie said I could go get her and put car fare on the table, and I went after her.

Q. Was anything said before Effie got there?

A. No sir, not at all. Not until she got there.

Q. Was anything said after she got there about it?

A. Economides said he had a friend from Beaumont, a nice woman, and wanted us to meet her, and after she got there she went to telling us to come to Beaumont.

Q. Tell the Jury everything that you remember that both of them said in reference to coming to Beaumont,

Effie and Economides?

- A. Effie said she wanted us to come here; that she had a private house and wanted us three girls to come over, and Economides said yes, it was a nice place and he knew we would like it; that there was nothing in the jobs we had and to come here and we would make more money. Effie said that and Economides said he knew we would like it, and if we did not he would send us the money to come home on, and there was nothing more said.
  - Q. Who mentioned Gertrude first?

A. Economides.

Q. What did he say?

A. He said we had a younger sister and he wanted us to get her.

Q. Who was he talking to?

- A. Effie and Annette and myself.
- Q. He said you had a younger sister, and I want you to get her?
- A. Yes sir, and Economides said "Florence will go and get her" so I went and got her.
  - Q. Effie furnished the money to pay the car fare?
  - A. Yes sir.
  - Q. How much?
  - A. Fifty cents.
  - Q. Did you go after Gertrude?
  - A. Yes sir.
  - Q. Where was she?
  - A. Up at my aunt's on Bank Street.
  - Q. What was she doing?
- A. My aunt was not there and she was just finishing cleaning the kitchen. She was in the back part of the house cleaning the kitchen.
  - Q. Was she doing anything in the kitchen?
  - A. Yes sir, just finishing cleaning the kitchen.
  - Q. Where did you go?
  - A. I got her and went down to Economides place.
  - Q. You went back to Economides place?
  - A. Yes sir.
  - Q. Who was there when you got back?
  - A. Effie, Annette and Economides.
- Q. What was said after you got there with your sister Gertrude?

A. Economides said "Here is the other sister I was telling you about; there are three of them; I want you all to go up there and you will have a good time and have something. You will not have anything with the little jobs you have got." He said "Here are the three sisters; this is the youngest one. You all go to Beaumont tonight, and if you don't like it better than New Orleans, and I know you will get better jobs there," and Effie told us to go, that she had a private house and we could get good jobs and all.

- You all had been drinking there?
- Yes sir, we had been drinking. A.
- Q. What time did you get back with Gertrude; about what time!
  - A. It was about four-thirty or five o'clock.
  - O. Was it dark or not?
- A. It was not dark when I went up there; it was near dark.
- Q. How long did you stay there after Gertrude got there!
  - We stayed there a little while, about an hour. A.
  - Where did you go from there? Q.
  - To Pauline Wilson's. A.
  - How did you go to Pauline Wilson's? Q.
  - We went in a taxicab. A.
  - Who called for it? Q.
  - A. Mr. Economides.
  - You three sisters went in the taxicab to Pauline O. Wilson's?
    - A. Yes sir.
    - Q. Where did Effie go?
    - A. She went first down to Miss Pauline's.
    - Q. Did she say anything when she left?
  - A. She said she would go to the house and fix things and told us to come after awhile, and we left a half hour after she went.
    - Who was there when you got there? Q.
    - Miss Effie and Pauline and Theresa. A.
    - Q. What is her other name?
    - Flood. A.
    - Q. How long did you stay at Pauline's house?
  - We stayed there about an hour; just time enough A. to get off.
    - Q. Tell what took place down there?
  - A. There was not anything; we had a few drinks with Effie and Pauline and dressed and went to the depot.

Q. Who dressed?

A. Just fixed our hair and things. We just had to fix our hair and fix up a little bit.

Q. Did you have a hat on when you went down there?

A. Yes sir.

Q. Did you wear the same hat to Beaumont?

A. Yes sir.

Q. Did Annette?

A. No sir. Annette had Miss Effie's hat and Gertrude had Miss Pauline's.

Q. Was there anything said about why they changed hats on that occasion?

A. They had on little hats and Effie wanted Annette to wear a big hat of hers, and said her's looked too kiddish or something of that kind, and Pauline said Gertrude's was, too, and Miss Pauline gave Gertrude a hat, and Effie gave Annette a hat.

Q. Who paid your way to Beaumont?

A. Miss Effie.

Q. Who bought the tickets?

A. Theresa.

Q. Do you know where Theresa got the money?

A. From Miss Effie.

Q. Did you see her get it?

A. Yes sir.

Q. Where did she get it?

A. She had some money, and she got the rest from Miss Pauline, forty or fifty dollars; it took that and she did not have enough and she got some from Miss Pauline.

Q. Where did she give Theresa the money?

A. At Miss Pauline's house.

Q. Who went to the depot together?

A. Theresa, Annette, Gertrude and myself.

Q. Where was Effie Hoke?

A. At Miss Pauline's; she said she would be over in a few days and come the next morning after we got here.

- Q. Where did you take the train?
- A. At the Union station.
- Q. What time did the train leave New Orleans?
- A. Nine-fifteen.
- Q. Did you stay in the same car all the way to Beaumont?
  - A. Yes sir.
  - Q. What time did you reach Beaumont?
  - A. Seven-thirty I believe.
  - Q. Where did you go to after you got to Beaumont?
  - A. To Effie Hoke's.
  - Q. How did you go there?
- A. Got a cab and went; we told them to take us there; we didn't know where it was.
- Q. You didn't know where it was and got a cab and told them to take you to that place?
  - A. Yes sir.
- Q. Did you know what kind of place you were going to?
  - A. No sir, I didn't know.
  - Q. What kind of place was Effie Hoke running?
  - A. Running a public house.
  - Q. A house of prostitution?
  - A. Yes sir.
  - Q. When did you find out what kind of house that was?
    - A. The same morning I got there.
    - Q. Who told you about it?
    - A. Ouida Landry.
    - Q. When did Effie Hoke come?
- A. The next morning. We got there about seven o'clock and she came the next morning some time.
- Q. Was anything said about wanting to go back to New Orleans after she came?
- A. Yes sir, the next morning I wanted to come back, and I went down and she said we would not come or

could not go back to New Orleans until we paid the railroad fare, hack fare and everything like that.

Q. Anything else?

A. No sir, that was all.

Q. Railroad fare and hack fare?

A. Yes sir.

Q. Railroad fare from where?

A. New Orleans.

Q. You stayed there did you?

A. Yes sir, I stayed there.

Q. You lived as an inmate of the house of prostitution and applied your vocation there?

A. Yes sir.

Q. How long did you stay there?

A. Two weeks.

Q. How did you get away?

A. Got out one morning about five o'clock.

Q. Why did you leave at five o'clock in the morning?

A. I wanted to leave and Miss Effie had said if we tried to get out she would kill us, so I got out that morning while she was asleep.

Q. Did you leave?

A. Yes sir, we left; we wanted to go to Houston, but did not get our clothes so we could not go.

Q. Now you say you left the house at five o'clock in the morning?

A. Yes sir.

Mr. Luzenberg: We would like to make the same objection to this evidence on behalf of Mr. Economides.

Mr. Greer: Will the Court permit us to consider that our objection is urged at various stages, and that we may consider it as made without jumping up and interrupting the proceedings?

The Court: You can take exception to anything that occurred between Effie Hoke and this witness outside the presence of Economides.

- Q. You left at five o'clock in the morning?
- A. Yes sir.
- Q. Who did you leave with?
- A. Ouida Landry.
- Q. Who else?
- A. Paul something-Hanley, and Ouida Landry.
- Q. Where did you go?
- A. We went down to some hotel, down here, started to go, and a policeman would not let us go.
  - Q. You started to go there?
  - A. Yes sir, we started to go to the hotel.
  - Q. You were arrested?
- A. No sir, not exactly arrested; we were taken to the hotel; walked down there.
  - Mr. Luzenberg: We object on the same ground.
  - Q. Who was it arrested you?
  - A. I don't know, a fellow called Teddy.
  - Q. Do you know his other name?
- A. No sir, we had only been here two weeks and I didn't know their names.
  - Q. Where did he take you?
- A. To the hotel and then down to the jail at the court house.
  - Q. How long was that after you left this house?
- A. Right after we left; as soon as we got up on the main streets.
  - Q. How long had you been out of that house?
  - A. About a half hour.
  - Q. Who were you arrested by?
  - A. I don't know who he was.
  - Q. Was he a policeman in uniform?
  - A. Yes sir, two of them.
  - Q. Do you know who the other man was?
  - A. I know one was called Teddy; I don't know who they were.
    - Q. Do you know whether one was Martin or not?
    - A. No sir, it was not Martin.

- Q. Where did you stay then?
- A. Down at the jail.
- Q. How long did you stay there?
- A. About an hour.
- Q. When you got out of jail where did you go?
- A. We went to the depot and thought we would get our things after we saw we could not get them.
  - Q. Did you try to get your things?
  - A. Yes sir.
  - Q. Did you get them?
  - A. No sir.
  - Q. Were you arrested again?
  - A. No sir, we went to the Jefferson Hotel.
- Q. Were you arrested again before you left Beaumont?
  - A. Yes sir, from the Jefferson Hotel.
  - Q. Who arrested you there?
  - A. I don't know; some policemen, two of them.
  - Q. What was the charge against you there?
  - A. They had us arrested for vagrancy.
  - Q. You were arrested for being vagrants?
  - A. Yes sir.
- Q. Your sister Annette was arrested and Ouida and yourself?
  - A. Yes sir.
  - Q. How old did you say you were?
  - A. 18.
  - Q. When is your birth-day?
  - A. The 18th of this month I will be 19.
- Q. Were you a virtuous woman when you left New Orleans?
  - A. Yes sir.
- Q. At that time had you ever lived in a house of prostitution?
  - A. No sir.
  - Q. Were you working in a moving picture show?
  - A. Yes sir.

- Q. Did you understand me, you were not a virtuous girl when you left New Orleans?
  - A. No sir.
- Since you have been in Beaumont you have been a public prostitute?
  - A. Yes sir.
  - Q. You are a public prostitute now?
  - A. Yes.

# CROSS EXAMINATION.

# Questioned by Mr. Luzenberg:

When did you go to New Orleans?

I have been in New Orleans off and one for nine or ten years; I have only been living there about three years.

Q. You were living in New Orleans before your sis-

ter Annette came there?

A. No sir, she lived there before I did.

Q. She lived in New Orleans longer than three years?

A. Yes sir.

Q. What year did you go to New Orleans, do you remember?

A. I don't remember what year.

Q. Where were you living before you came to New Orleans?

A. Memphis, Tenn. We lived in the country about Slidell, La., afterwards.

Q. Before you Moved to Memphis?

A. Yes sir.

Q. Your family moved?

A. No sir.

Q. How long did you live there?

A. Five or six months.

Where did you first live when you came to New Q. Orleans?

On State Street with my aunt?

- Q. Then where did you live?
- A. I lived down on Bank. I lived there with an aunt of mine and then moved to Mrs. Grainage's on State Street.
- Q. Do you remember when you moved to Mrs. Grainage's?
  - A. No sir, not exactly.
  - Q. How long did you remain at her house?
  - A. About a month.
  - Q. Didn't you remain longer than a month?
  - A. Not much over a month.
  - Q. Were you working then?
  - A. Yes, sir; on Canal Street at a picture show.
  - Q. What time did you go to work at the picture show?
  - A. In the morning; I would work from 9 o'clock.
  - Q. Nine o'clock in the morning?
  - A. Yes, sir.
- Q. Did you work there the whole time you were at Mrs. Grinage's?
  - A. Yes, sir.
  - Q. You don't remember the month or year?
  - A. No, sir; I don't remember.
  - Q. Were you at Mrs. Grinage's besides that time?
  - A. No, sir
  - Q. Did you work all the time you were at her place?
  - A. Yes, sir.
- Q. Is it not a fact that while you were at Mrs. Jrinage's you did not get up until 12 o'clock in the day!
- A. No, sir; I went to work every morning until noon, went to work at 9 o'clock. Annette was on a vacation, and did not get up.
  - Q. What time did you get in in the evening?
  - A. Six o'clock.
  - Q. Did you go home then?
  - A. Yes, sir.
- Q. You were in the habit of going home at 12 o'clock at night?

- A. No, sir; I would go to the theatre and get home at 12 o'clock.
  - You went to the theatre every night? Q.
  - No. sir, every other night perhaps. A.
  - Did you go with friends? Q.
  - Yes, sir. A.
  - Male friends? Q.
  - A. Yes, sir, and female, too.
  - Q. After you left Mrs. Grinage's, where did you go?
  - A. After we left Mrs. Grinage's we went to the country.
    - How long did you stay there? 0.
    - Two or three weeks. A.
    - Did you come back to New Orleans? Q.
    - A. Yes, sir.
    - Where did you go then? Q.
    - To Church Street. A.
    - Q. To whose house?
    - A. Maggie's, is all I know.
    - Q. Did you go to the picture shows at night?
    - Yes, sir; to the theatre. We got in at 12 o'clock A at night.
      - Where were you working when living at Maggie's?
    - A I laid off when I went to the country, and then went to work at the same place.
      - Q. How long did you stay at Miss Maggie's?
    - A. I came there Sunday; no, Wednesday night, and left Monday, and came to Beaumont.
    - Q. The only two places you stayed were at Mrs. Grinage's and Maggie's, besides with your family?
      - A. Yes, sir.
      - Q. Did you ever live at Mrs. Carrie Bryant's?
      - A. No, sir.
      - Q. Have you ever been in her house?
    - A. Yes, sir; I was there once. I had a friend there, and went there once to see a girl friend.
      - Q. A friend, a girl?
      - A. Yes, sir.

- Q. Do you know Mr. Seebold?
- A. Yes, sir.
- Q. Were you ever in his place?
- A. Yes, sir; I was in his place once or twice.
- Q. Were you in the habit of going to his place?
- A. No, sir.
- Q. What kind of place is his place?
- A. A wine room and lunch.
- Q. What kind of wine room?
- A. For anybody that wanted to go.
- Q. Do you know the class of women that go there?
- A. Yes, sir.
- Q. What kind of women go there?
- A. Decent people.
- Q. Did you associate with the people there?
- A. Yes, sir.
- Q. Drink there?
- A. Yes, sir.
- Q. Did you ever go there with men?
- A. I went there twice with men, my sisters, too; we all went together.
  - Q. Did you drink together?
  - A. Yes, sir.
  - Q. Did you ever go to Jack Robertson's wine room?
- A. I know him; he had always invited us to go there; I never went there.
  - Q. Did you go to Economides' place?
  - A. Yes, sir.
  - Q. Many times?
  - A. Well, a few times.
  - Q. What do you mean by a few times?
  - A. I was in his place three or four times.
  - Q. Did you drink there?
  - A. Yes, sir.
  - Q. You met women there?
  - A. Yes, sir.
  - Q. You met men there?

- A. No, sir; I didn't meet men there. Some friends of ours would go with us there, and they would introduce us to other friends.
  - Q. You would drink with those men?
  - A. Yes, sir.
- Q. Had you ever known Miss Effie before you met her
  - A. No, sir; I never saw her before in my life.
  - Q. You never met her in Mr. Seebold's?
  - A. No, sir; I have known Mr. Seebold quite a while.
- Q. Did you ever meet her in Mr. Economide's place before?
  - A. No, sir.
- Q. Did you ever meet her in Miss Wilson's place before this night?
  - A. No, sir.
  - Q. You had never been to Miss Wilson's place?
  - A. No, sir; I never had before.
- Q. What time of day did you go to Economides' place before you came to Beaumont?
  - A. Two o'clock in the afternoon.
  - Q. Where were you going?
- A. We were passing there, Annette and myself, and Economides called us, Annette and myself; I did not go, I went on and Annette went back.
  - Q. Where were you going?
- A. I was going back to work at the picture show. Annette was with me; we had come from Royal Street to get our suitcases.
- Q. Did you have your suitcase with you when you went to Economides'?
- A. No, sir; she went to see about it; the woman did not know whether it was ours or not; we went to see if it was still there, and passed Economides' place coming back.
  - Q. That was what time?
  - A. It was about 2 o'clock.
  - Q. It was not 3 o'clock?

- A. It was about 2 or 2:30; I never noticed the time.
- Q. Then you left your sister?
- A. Yes, sir.
- Q. And you came back at what time?
- A. I went to the show and he sent for me, and I went around there about a half hour afterwards.
  - Q. When you first went there, you had some drinks?
  - A. Yes, sir.
  - Q. How many drinks did you have?
- A. We had a drink with Miss Effie and Economides, drinking beer, and we had a mixed drinks.
  - Q. How many drinks did you have before 8 o'clock?
  - A. I don't know; several.
- Q. You had so many you cannot remember how many you had?
  - A. Yes, sir.
  - Q. Miss Effie was drinking, too?
  - A. Yes, sir.
- Q. Other people going in and out of that place all the time?
  - A. Yes, sir; but not in that wine room.
  - Q. You could hear the people moving around?
  - A. Yes, sir.
- Q. Now, I understand you to say that nothing was said about coming here until Effie came?
- A. No, sir; nothing said about it until she came, and then they went to talking about Beaumont.
  - Q. Nothing said until she got there?
  - A. No, sir.
  - Q. Who started the conversation?
- A. Economides introduced us and said she was a friend from Beaumont and wanted us to go with her.
  - Q. Your sister was there at the time?
  - A. Yes, sir.
  - Q. Miss Effie was there at the time?
  - A. Yes, sir.
- Q. Had you ever spoken about coming to Beaumont before this?

A. No, sir; I never had.

Q. Miss Effie said she had a private house?

A. She said she had a private boarding house, and she said we could get jobs here, and said there was nothing in the job I had, and she would get us jobs.

What kind of jobs did you think she would get?

In stores and picture shows. A.

While you were here, you were in the habit of going out before you ever left Miss Effie's, and would go out in the day time?

A. Yes, sir; I went out twice in two weeks.

Was there any reason why you could not go out any more?

A. No, sir.

Q. Did you ever ask for employment at Beaumont?

A. No, sir.

Q. Did you ever ask at the picture shows?

A. No, sir.

Q. Did you ask at the stores?

A. I asked friends of mine, and they said "No, after you are once here you don't get a job uptown."

Q. What friend did you ask?

A. A friend of mine in town.

Q. Who is he?

A. I don't know his name; he lived in a little country town; he used to live here, and worked for the railroad. I asked if there was any chance for getting a job here, and he said "No, if I had come from New Orleans and hunted a job I could, but I could not go to this place and get a job afterwards."

Q. You didn't know Miss Effie's business?

No, sir. A.

Q. You met her in a wine room?

A. Yes, sir.

You did not know the character of people that frequented wine rooms?

A. Some good people go there.

- Q. Did you ever see any decent women go into Seebold's and Economides'?
  - A. Yes, sir; decent girls go to Billie Seebold's.
  - Q. That is in the restricted district?
- A. It is on North Rampart; the restricted district of New Orleans is a block off, four blocks off; it is three or four blocks back.
  - Q. You know where the restricted district is?
  - A. Yes, sir.
- Q. Don't you know the kind of women that frequent Billie Seebold's, and that they are sporting women; you have been in Billie Seebold's and Economides' many times?
- A. I had been in Billie Seebold's; I had not been in Economides' very many times.
- Q. How many times have you been to Billie Seebold's?
  - A. Seven or eight times, but never alone.
  - Q. You would meet men there?
  - A. No, sir.
  - Q. You would drink there?
- A. Yes, sir; we would go there with fellows and drink, but we would not go there to meet any men.
  - Q. You would not meet there?
  - A. No, sir.
- Q. Your sister was with you very often when you went there?
  - A. Yes, sir.
- Q. You would go there with your friends and her friends?
  - A. Yes, sir.
- Q. Did you ever go with your younger sister, Gertrude?
  - A. She went with us once.
  - Q. To that kind of place?
  - A. Yes, sir; she went to Billie Seebold's.
  - Q. Where did she live?

A. At my aunt's.

Q. You took her with you to Billie Seebold's?

A. Yes, sir; she went one Sunday afternoon.

Q. You selected Sunday afternoon to take her to that place?

A. Yes, sir.

- Q. Whom did you meet there when you took her?
- A. We did not meet anybody, only the friends that went with us.
  - Q. How many were with you?

A. Three.

Q. Did you bring your sister to meet those men?

A. No, sir; Annette and myself and three men went and we got Gertrude to come down.

Q. Did you drink anything at Seebold's?

A. Yes, sir; beer.

Q. How much beer did you drink?

A. Two or three bottles.
Q. Two or three apiece?

A. We would get it and split it around; we never drank very much.

Q. You never drank very much, did you?

A. No, sir; if I would drink one bottle of beer, then it would make me drunk.

Q. How many times had you been in Seebold's before

that time?

- A. Four or five times before I took her there.
- Q. You knew the character of the place?

A. Yes, sir.

Q. How long did you remain at Economides' the night you met Effie Hoke there?

A. Until about 8 o'clock. We just had time after we went to Miss Pauline's to stay there a few minutes and take a few bottles of beer and get to the train.

Q. Were you drunk or sober?

A. I was not to say drunk; I was a little intoxicated.

Q. You drank how much?

- A. I drank from the time I got there until I left.
- Q. Had you drank anything during the time before, during the day?
  - A. No, sir; not after 2 o'clock.
- Q. After you left Effie's, how long did you remain in Beaumont?
- A. Two weeks; after I left there I stayed here a while and went to Galveston, and came back and lived at Bessie Dean's house.
  - Q. That is a house of prostitution?
  - A. Yes, sir.
  - Q. You went to Galveston?
  - A. Yes, sir.
  - Q. You went to a house of prostitution there?
  - A. Yes, sir.
  - Q. Who did you go to Galveston with?
  - A. By myself.

#### CROSS-EXAMINATION BY DEFENDANT, EFFIE HOKE.

#### Questioned by Mr. Howth:

- Q. Where were you born?
- A. At Slidell.
- Q. In Louisiana?
- A. Yes, sir; thirty-eight miles from New Orleans.
- Q. North, south, east, or west?
- A. North.
- Q. On the railroad?
- A. Yes, sir.
- Q. Where were your sisters born?
- A. Slidell.
- Q. All of you born there?
- A. Yes, sir.
- Q. Are your parents living?
- A. Yes, sir; they are living.
- Q. Both of them?
- A. Yes, sir.

- Have you any brothers or sisters? Q.
- I have one brother. A.
- Q. Is he living.
- A. Yes, sir.
- Q. Where is he living?
- A. I guess he is in Slidell.
- Q. What is your real name?
- A. Florence Baden is my name.
- That is your full name? Q.
- A. Yes, sir.
- Q. You went to New Orleans eight or nine years ago the first time?
  - A. Yes, sir.
  - Q. How old were you at that time?
  - I was living with my grandmother; I was small. A.
  - Q. What is your grandmother's name?
  - A. Baden.
  - Q. Does she live there now?
  - Yes, sir. A.
- Q. When was the first time you went there after you had grown up to be a young lady?
- A. I was 13 when I went there to stay, and then I went home and stayed a while and came back when I was 15.
- Q. I understand that Hays is just your stage name; Baden is your real name?
  - A. Yes, sir.
  - When did you take the name of Hays? Q.
  - When I came to Beaumont. A.
  - Q. You took the name when you left New Orleans?
  - Yes, sir; I took it before we left New Orleans. A.
  - Q. You took the name of Hays?
  - A. Yes, sir.
  - Q. When did you decide to take that name?
- A. In New Orleans, after we met Miss Effie and thought we were coming here.

- Q. You had no idea in the world that Effie was running a bad place?
  - A. No, sir.
- Q. thought she was running a nice, decent, respectable boarding house for working girls?
  - A. Yes, sir.
  - Q. What was the object in changing your name?
- A. I did not want to go by the same name. Annette fell out with my aunt and she changed her name to Hays.
  - Q. Annette fell out with your aunt?
  - A. Yes, sir.
  - Q. She was not living with your aunt?
- A. Annette said change it; she said she would change her name, and she changed it a good while before we met Miss Effie, and took the same name.
- Q. I asked you when you changed your name, and you said after you met Effie and decided to come to Beaumont?
- A. We did, and Annette said we would go by the name of Hays.
- Q. Had you been going by the name of Hays for some time in New Orleans?
  - A. Annette had.
- Q. How long had she been going by the name of Hays?
  - A. I don't know; ever since she fell out with my aunt.
  - Q. When did she fall out with her aunt?
  - A. Before we went to the country, two or three weeks.
- Q. She changed her name to Hays three or four weeks before she came to Beaumont?
  - A. Yes, sir.
- Q. For no other reason than that she had fallen out with her aunt; is that the only reason?
- A. Yes, sir; she said she would not go by that name any more and wanted to go by the name of Hays.
- Q. When you started to come to Beaumont, you thought you would change your name, too?

A. Yes, sir.

Q. You had not thought of changing it until you made up your mind to come to Beaumont?

A. I never did try to change my name. Annette said she was going by the name of Hays, and she told everybody our names was Hays.

Q. You told people your name was Hays when you came to Beaumont?

A. Yes, sir.

Q. Did you tell Effie your name was Hays?

A. No, sir.

Q. Did you tell Economides your name was Hays?

A. No, sir.

Q. Did you tell Pauline Wilson your name was Hays?

A. No, sir; all they knew was my first name.

Q. You changed your name because you were coming to Beaumont, without having any suspicion that Effie Hoke was running an improper place?

A. I didn't have any idea of coming over here until I went to drinking beer and mixed drinks; I didn't care

then.

Q. Did you come because you were too drunk to know?

A. I didn't care; I was feeling good.

Q. You were drunk enough not to care whether you came or not; why were you not drunk enough not to care about your name?

A. I always thought about my name.

Q. You thought more about your name than you did about your conduct; is that correct?

A. I didn't care about myself; I didn't want my father to know?

Q. Isn't it a fact that you had been going by the name of Hays in New Orleans all the time?

A. No, sir.

Q. Did you ever go by the name of Jerdone?

- A. No, sir. Some people pronounce the name Bedon; I never did pronounce it Bedon.
  - Q. Did you ever spell your name Berdone?
  - A. No, sir.
  - Q. Did you ever go by the name of Berdone?
  - A. No, sir.
- Q. You came back to New Orleans on the same train that Annette came on; you and Annette came to New Orleans together?
  - A. Yes, sir.
- Q. On the Sunday preceding the Monday you came to New Orleans, I mean to Beaumont?
  - A. Yes, sir.
  - Q. You had been to the country?
  - A. Yes, sir.
  - Q. Who had you visited out there?
  - A. My aunt.
  - Q. What is her name?
  - A. Richardson.
  - Q. Gertrude was along, too.
  - A. No, sir; she didn't go at all.
  - Q. She didn't go?
  - A. No, sir.
- Q. You came back in and got to New Orleans that evening about 8 o'clock?
  - A. No, sir; I came in Wednesday.
  - Q. You didn't come in together?
  - A. No, sir.
  - Q. Were you on the train with Annette?
- A. No, sir; I came Wednesday and she came Sunday night.
  - Q. Did you meet her at the train?
  - A. Yes, sir.
  - Q. How came you to meet her at the train?
  - A. She wrote and told me to meet her.
  - Q. Did you get a letter from her?
  - A. Yes, sir; I got a letter.

Q. There was no 'phone message, but a letter you received from her?

A. She 'phoned to me two or three times; she 'phoned and told me.

Q. How did you know the train she was coming on?

A. She wrote me.

Q. You and Annette were not living at the same place at that time?

A. Yes, sir.

Q. What place was it?

A. We lived at Mrs. Grinage's.

Q. Were you living there at that time?

A. Yes, sir.

Q. November, 1910.

A. Yes, sir.

Q. You left Mrs. Grinage's house that evening and went to the train and met your sister?

A. Yes, sir.

Q. Where did you go after you met her?

A. I met her and went down on Church Street and St. Charles to this other room.

Q. Where did you go to?

A. To Church Street to a boarding house; it was too late to go to Mrs. Grinage's.

Q. Who kept the place that you went to?

A. All I know is two sisters, Maggie and Eliza.

Q. What kind of place was that?

A. A boarding house.

Q. A nice, respectable place?

A. Yes, sir.

Q. Not an assignation house?

A. No, sir; a respectable boarding house.

Q. You and your sister went there together?

A. Yes, sir.

Q. What did you go there for?

A. To stay that night.

- Q. What time that evening did you go there?
- A. It was late; we went and got supper.
- Q. You and your sister?
- A. Yes, sir.
- Q. You went to a boarding house that was kept by two sisters, Eliza and Maggie, and which you say was a respectable boarding house and not an assignation house?
  - A. No, sir; it was not.
  - Q. Did any other girls board there?
  - A. Yes, sir.
- Q. Give the names of some of the other girls that boarded there.
  - A. No single girls, but married women.
- Q. Where did you and your sister get supper that night?
  - A. Farbackers.
  - Q. What time of night was that?
  - A. The train came in at 9:30 or 10 o'clock.
  - Q. You went to Farbacker's?
  - A. Yes, sir.
  - Q. You and your sister, and not another person?
  - A. Yes, sir.
  - Q. Is it a cheap place or an expensive place?
  - A. The best restaurant in New Orleans.
  - Q. The most expensive in New Orleans?
  - A. Yes, sir.
  - Q. You were working girls?
  - A. Yes, sir.
  - Q. How much were you getting a week?
  - A. Eight dollars.
- Q. And then, after you had your supper, where did you go?
  - A. It was then near 12 o'clock.
- Q. It took you from 10 o'clock until 12 o'clock to eat your supper?
  - A. Yes, sir; some of my friends came there.

- Q. You had quite an elaborate spread?
- A. Yes, sir; and my aunt was in there at the time.
- Q. What is her name?
- A. Branch.
- Q. What is her husband's name?
- A. Jack Wolf.
- Q. What is her first name?
- A. Branch; she is married again now.
- O. What was her name then?
- A. Wolf.
- Q. She is married again now and her name is Branch?
- A. Yes, sir.
- Q. Then your aunt, Mrs. Wolfe, was in there at that time?
  - A. Yes, sir.
  - Q. How many aunts have you in New Orleans?
  - A. Three.
  - Q. Give their names.
- A. One is Branch, and the other is my father's brother's wife; there are two named Baden; he had two brothers married.
  - Q. Your father's brother's wife!
  - A. Yes, sir; we have two uncles there.
  - Q. What is their name?
  - A. Baden.
  - Q. One is Branch and the other two are Baden.
  - A. Yes, sir.
  - Q. You have two Aunt Badens?
  - A. Yes, sir.
  - Q. Where does Mrs. Branch live?
  - A. On State Street, 608 State and the corner of
    - Q. Where does the other aunt live?
    - A. On Dupree Street.
    - Q. Why does it take you so long to tell?
    - A. I have to think of it. She boards on Dupree.

- Q. Whereabout on Dupree?
- A. That is a long street, 1108.
- Q. Which one of the Badens lives at 1108 Dupree?
- A. Mrs. G. Baden.
- Q. Any other initials?
- A. That is all.
- Q. Just G. Baden?
- A. Yes, sir.
- Q. Where does your other aunt live?
- A. She had just moved to town; I don't know where she lived then.
  - Q. You don't know where she lived?
- A. She lived near La Fayette Square; she had just moved to town, and I didn't go around my relatives; not all of them.
- Q. What is her name; what is your other aunt's name?
  - A. Baden.
  - Q. What is her other name?
  - A. C. Baden.
  - Q. How old is Mrs. C. Baden?
  - A. She is 24.
  - Q. How old is Mrs. G. Baden?
  - A. She is thirty something; I don't know exactly.
  - Q. What does her husband do?
  - A. He is a whiskey drummer.
  - Q. Mrs. G. Baden's husband?
  - A. Yes, sir.
  - Q. He is a whiskey drummer?
  - A. Yes, sir.
- Q. What are his initials? Mrs. G. Baden's husband's initials?
  - A. His name is G.
  - Q. Is that all?
  - A. Yes, sir; George.
- Q. What is the name of the husband of Mrs. C. Baden; tell us that, what is his name?
  - A. Charles.

Q. What does he do?

A. He is a saloon man.

Q. Are you not mistaken, and is it not a fact that you have only one aunt in New Orleans, and her name is J. G. and her husband is a carpenter?

A. One just moved there, and one has been living

there quite a while.

Q. Isn't it a fact that her husband is a carpenter?

A. He is a bartender and carpenter; he can do either one.

Q. You are sure his name is Charles.

A. Yes, sir.

Q. He is not following the carpenter's trade, is he?

A. I don't know what he is doing now.

Q. Is he following the business of a bartender or the business of a carpenter?

A. I don't know just-

Mr. Ownby: We object, as immaterial and irrelevant.

Objection sustained.

Defendants except.

Q. Well, Miss Florence, would you mind telling the jury when you ceased being a virtuous girl?

Mr. Ownby: I object to that.

The Court: The witness has answered that she was not a virtuous women when she came from Beaumont to New Orleans, rather from New Orleans to Beaumont, and that since that time she had been a public prostitute, and that being the case the Court rules that specific instances of lapses of virtue would not be material. You may answer the question as to how long you had ceased to be virtuous before you left New Orleans to come to Beaumont?

Q. How long?

A. About eight months.

- Q. Did you ever live in a public house in New Orleans?
  - A. No, sir.
- Q. Did you frequent assignation houses in New Orleans?
  - A. No, sir.
- Q. Did you frequent public houses for purposes of assignation?
  - A. No. sir.
  - Q. I mean hotels?
  - A. No, sir.
  - Q. Where did you carry on the traffic over there?
  - Mr. Ownby objects, as immaterial and irrelevant.

Objection sustained.

Defendants except.

- Q. How many months have you been frequenting wine rooms, going to wine rooms?
  - A. Not over two months.
  - Q. How long had youu known Pauline Wilson?
- A. I had not seen her but once before that night that we went to her house; I saw her once before then.
- Q. I understood you to say you had never been to Pauline's house?
- A. The second time I saw her was when I went to her house that night to go to the train.
  - Q. Where did you see her the first time?
  - A. Down in Economides' wine room.
  - Q. How long was that before you met her that night?
- A. It was about three weeks. She came there one night when we were there and tried to get me to go to her house.
  - Q. You declined to go?
  - A. Yes sir.
  - Q. Did you go!
  - A. No sir.

Q. You could not go?

A. No sir, I told her I could not.

Q. You had been living in that city how long, New Orleans?

A. I have been living there off and on nine years, but have only been working there three years.

Q. When did you move there, about what month and what year did you move there?

A. I moved there in November.

Q. What year?

A. I stayed there quite a while and worked; I worked there in 1904; I worked awhile and went back and came back and went to Memphis.

Q. Who did you work for in 1904?

A. The same place, the Victor Theatre.

Q. What kind of theatre is that?

A. A moving picture show and vaudeville.

Q. Who runs that place?

A. A fellow named Brooks then.

Q. You lived there and went back at what time?

A. I went to Memphis and stayed in Memphis two years, and then I went back.

Q. When was it, what year was it; I want to find the last time you moved there?

A. I left there in 1905 and came back in 1907.

Q. You went there the last time in 1907?

A. Yes sir.

Q. Who did you board with?

A. I stayed with my grand-mother.

Q. What is her name?

A. Baden.

Q. Do you know what street she lived on?

A. At State Street with my aunt.

Q. That is another street, a long street?

A. Yes sir, 608.

Q. Who did you work for at that time?

A. The same place.

- Q. You worked there at that time and lived with your grand-mother?
  - A. Yes sir, awhile.
  - Q. I thought you said you did not work at that time?
- A. I did work after I went to Memphis and came back.
  - Q. Who was it?
  - A. The same party the Victor Theatre.
  - Q. The Victor Theatre?
  - A. Yes sir.
- Q. Didn't you call that the Chrystal Theatre awhile ago?
  - A. No sir.
  - Q. Did it change its name in the mean time?
  - A. No sir. I never said Chrystal, I said Victor.
  - Q. How long did you work there?
  - A. A month.
  - Q. What were the hours of work?
  - A. The first time I worked there, nine to six.
  - Q. Then where did you go to from there?
- A. I stayed at my aunt's when her husband was gone away, and I stayed with my grand-mother.
  - Q. Which one of the aunts was it?
- A. Branch. She and her husband went away and I stayed with my grand-mother.
  - Q. Is he the whiskey drummer Branch?
  - A. Yes sir.
- Q. Did you not say awhile ago that Mrs. G. Baden was the whiskey drummer's wife?
- A. Yes sir. My uncle Gauley. He was a drummer too and worked as a carpenter.
  - Q. You have three aunts?
  - A. Yes sir.
- Q. One named Wolf, first she married Wolf and after that married Branch?
  - A. Yes sir.

- Q. And then you had two other aunts?
- A. Yes sir.
- Q. Your father's brothers' wives, and their names was Baden, and Mrs. G. Baden's husband was whiskey drummer?
  - A. Yes sir.
- Q. Do you now say that Mrs. Branch's husband was a whiskey drummer?
  - A. Yes sir. Her second husband was a whiskey

drummer.

- Q. Don't you think you are a little mixed up on that?
- A. No sir, I am not mixed up at all.
- Q. You said that Mrs. Branch,—her name was Wolf at that time?
- A. I said I stayed with her twice, one time when her name was Wolf and once when her name was Branch.

  This last time her name was Branch.
  - Q. You went to New Orleans in 1907?
  - A. Yes sir.
- Q. You stayed with your grand-mother and worked a month for a moving picture show, and then went and lived with your aunt, Mrs. Branch?
  - A. Yes sir, she and my grand-mother lived together.
  - Q. Her name was Branch at that time?
  - A. Yes sir.
  - Q. That was in 1907?
  - A. Yes sir.
- Q. That is what her name was at that time, that is what you now tell the jury?
  - A. Yes sir.
  - Q. How old a woman was she?
  - A. She is 29.
  - Q. She is 29.
  - A. Yes sir, 29 now.
  - Q. You say she is 29 now?
  - A. She was 29 then.

- Q. How long did you stay with Mrs. Branch?
- A. I stayed there about two months.
- Q. Do you know what street she lived on?
- A. 608 State Street.
- Q. That is where your grand-mother lived?
- A. She lived with my grand-mother.
- Q. You said awhile ago you ceased to live with your grand-mother and went to live with your aunt?
  - A. No sir, I didn't say that.
- Q. Didn't you say you lived with your grand-mother at 608 State Street, and you then went to live with your grand-mother?
  - A. They lived together.
- Q. Didn't you say you then went to live with your aunt Mrs. Branch?
- A. Didn't you say that, didn't I say that. I didn't fall out with my grand-mother at all.
  - Q. You didn't say that?
- A. No sir, they were both living together, my aunt and my grand-mother.
- Q. How long did you stay with your aunt and grand-mother?
- A. I stayed there three months and then moved to Mrs. Grinage's.
  - Q. Well, did you continue to work at a picture show?
  - A. Yes sir. After I moved to Mrs. Grinage's.
- Q. I understood you to say you only worked at the picture show about a month?
- A. After my uncle came back I went to work there again and moved to Mrs. Grinage's.
  - Q. Where was your uncle gone to?
  - A. New York, I believe. He was a drummer.
  - Q. Do you know what house he traveled for?
  - A. No sir.
  - Q. Do you know what his territory covered?
  - A. No sir.

Q. Do you know what kind of looking man he is; what kind of looking man is he?

A. He is a big Jew.

Mr. Ownby objects as immaterial and irrelevant.

Objection sustained.

Defendants except.

Q. When your uncle came back you quit living with your aunt?

A. Yes sir, and then went to live with Mrs. Grinage.

Q. Who did you work for then?

A. The Victor Theatre.

Q. How long did you work there?

A. I moved to Mrs. Grinage's and lived there a little over a month, and worked at the show until we left for the country.

Q. How long was that?

A. A little over a month.

Q. Then you left for the country?

A. Yes sir.

Q. Was that the trip you and Annette took?

A. Yes sir.

Q. The same trip you came back from when you left together and came to Beaumont?

A. Yes sir.

Q. Are you sure of that?

A. Yes sir, the same trip.

Q. Let's see if you are not mistaken about that?

A. No sir.

Q. You said you went to New Orleans in 1907, the last trip you made there was in 1907 when you worked at the theatre about a month and lived with your grand-mother?

A. Yes sir.

Q. And then you went and lived with your aunt who lived at the same place with your grand-mother, I be-

lieve you finally got it that way, and stayed three months until her husband came back from New Orleans, and then went to live with Mrs. Grinage?

- A. Yes sir.
- Q. That would be four months, and you stayed there a month?
  - A. Yes sir.
- Q. That would be five months and you went to the country, and that trip which you say you took to the country was the identical trip you and your sister took from which you had returned the day before you met Effie Hoke and came to Beaumont?
  - A. I came back Wednesday before.
- Q. Don't you know that was not the way it happened; you know that is not the way it happened, and that would only be five months from 1907, and you didn't come here until 1910? Don't you know you didn't come to Beaumont until 1910?
  - A. I know I didn't.
- Q. That is true, you came here last fall, in November?
  - A. Yes sir.
  - Q. 19107
  - A. Yes sir.
- Q. According to your statement of where you lived, you only lived in New Orleans five months after 1907 before you took the trip to the country?
- A. I stayed at my aunt's three months, Mrs. Branch's, and then moved to Mrs. Grinage's and stayed a month and then went to the country.
- Q. You have only placed yourself in New Orleans five months after 1907 before you took this trip to the country, the same trip you and your sister took from which you had just returned when you came to Beaumont, and you did not come to Beaumont until 1910?
- A. I don't know about 1907; I was there off and on. I didn't stay there very steady.

- Q. You stayed at Mrs. Grinage's three months?
- A. No sir, a little over a month.
- Q. You worked at the theatre?
- A. Yes sir.
- Q. Where did you go then?
- A. I went to the country.
- Q. You stayed in the country how long?
- A. Three weeks.
- Q. Then where did you go?
- A. Came back to New Orleans.
- Q. Then what did you do?
- A. I got there on Wednesday, and went to work and on Monday I met Miss Effie and came over here.
  - Q. You were in New Orleans just five months?
  - A. I was there off and on since 1907.
  - Q. What did you do the balance of the time?
  - A. I was staying with my people.
  - Q. Tell us who you stayed with?
  - A. With my grand-mother and other aunts.
- Q. You told us about staying with your aunts; you told us about staying at Mrs. Branch's a month, and about going to the country and staying three weeks; what were you doing and how do you account for your presence in New Orleans the balance of the time, and where you stayed?
  - A. I stayed around my aunts and grand-mother.
  - Q. What aunt?
  - A. Two of them.
- Q. Which one did you stay with after you got back from the country?
- A. I did not stay with any of them. I stayed with Miss Maggie and Miss Eliza on Church Street.
- Q. Is it because you don't want to tell about the balance of the time in New Orleans?
  - A. I stayed around there that is all.
- Q. You have only accounted for five months of your time in New Orleans beginning with 1907?

A. I stayed around from one to the other.

Q. Isn't it a fact that the reason you make that statement is because you were in a sporting house?

A. No sir, I was not.

Q. And want to conceal that fact from the jury?

A. No sir.

Q. Tell the jury where you stayed the balance of your time in New Orleans?

A. I was with my aunts and grand-mother.

Q. Which ones?

A. Mrs. Branch and Mrs. Baden and my grand-mother.

Q. State all the time you stayed there?

A. I stayed from one to the other all the time.

Q. I would like to find the order in which you stayed with the different people, and the ones you stayed with when you first went there, and then where you went to and how long you stayed there and where you went to, so the jury may know what you were doing while in New Orleans?

A. I stayed with my grand-mother and two aunts.

Q. Can you tell us what periods of time you stayed with those relatives?

A. I could not say; I would stay two months with one and then the other, and then my grand-mother.

Mr. Howth: I think the Court ought to ask the witness to answer the question.

The Court: She said during the period 1907 to 1910 she stayed with one of her relatives and then the other.

Q. Now, when you got to Beaumont did you have a venereal disease?

Mr. Ownby: We object to that as immaterial and irrelevant.

Objection sustained.

Defendant except.

Q. Is it not a fact that Dr. Reagan treated you?

The Court: I have made a ruling, and you can take a bill, but don't ask the question.

Defendants except.

Q. How long have you been a frequenter of wine rooms?

A. As I said I had not been going to wine rooms more than two months altogether.

Q. You had been in wine rooms two months altogether?

A. I started to going to wine rooms two months before I came over here.

Q. Do you know Carrie Bryant?

A. I know of her.

Q. What kind of place does she run!

A. An assignation house I guess.

Q. You don't know that she runs that kind of place?

A. No sir, I do not; I guess it is. I was in her house once.

Q. You were in her house one time; when was that?

A. When a girl friend of mine was there I went there to see her.

Q. Was she an inmate of the house?

A. Yes sir, she was there three days and was sick.

Q. You went to see a girl friend?

A. Yes sir.

Q. At Carrie Bryant's?

A. Yes sir.

Q. Where does she live?

A. North Rampart Street, I don't know the number.

Q. You don't know the number?

A. No sir.

Q. Do you know what place it is?

A. Only right opposite Billie Seebold's place.

Q. Billie Seebold's wine room?

A. Yes sir.

- Q. Is that right?
- A. Yes sir.
- Q. How long had you known this girl friend who was an inmate of Billie Seebold's place, an inmate of Carrie Bryant's place opposite Billie Seebold's place that you went there to see?
- A. I have been knowing her five years; she used to live in the same house.
  - Q. Was she a companion of yours?
  - A. Yes sir.
  - Q. Did she go to the wine rooms with you?
  - A. Yes sir.
  - Q. Did you know that she was an immoral woman?
- A. She was all right at home, and when I found she was bad, we were forbidden to go to see her.
- Q. Do you tell the jury that that is the only time you went to Carrie's house, and that was the purpose for which you went, and that statement is as true as the balance of the testimony you have given
  - A. Yes sir.
- Q. And that that is as true as the statement that Effie Hoke induced you to come to Beaumont?
  - A. Yes sir.
- Q. How many times were you ever drunk in New Orleans?

Mr. Ownby: We object to that as immaterial and irrelevant.

The Court: She can answer it.

The Witness: I never was drunk to say drunk. I was drinking a good many times.

- Q. What would you call your state of intoxication?
- A. I was not drunk so I could not walk.
- Q. What was the condition you got in as a result of the use of intoxicating liquors?
  - A. Just act silly.

- Q. How many times have you been silly from drinking?
  - A. A glass of beer would make me act silly then.
  - Q. What do you mean by then?
  - A. Before I came over here.
- Q. You didn't know what it was to drink before you came to Beaumont?
  - A. No sir, not very much at a time.
- Q. How many times had you been silly from drinking when you left New Orleans?
  - A. Every time I drank.
  - Q. How many times would you drink?
  - A. Not very often.
- Q. How many times a week would you get silly from drinking?
  - A. Sometimes once a week and sometimes twice.
- Q. You were silly once a week from drinking when you lived in New Orleans and sometimes twice a week?
- A. Yes sir, if I wanted a glass of beer I would go to Seebold's or Economides.
  - Q. That statement is correct?
  - A. Yes sir.
- Q. When you say you met your sister at the train and that the train did not come in until 9:30 or 10:00 o'clock, and went to the restaurant and stayed until 12, and went to bed at a place run by Eliza and Maggie, are you not mistaken?
  - A. No sir.
- Q. Isn't it a fact that your sister and her beau went to the theatre that night, Sunday night?
  - A. No sir, they came in and went Monday night.
  - Q. Then Sunday night is not the night you came in?
- A. I made a mistake. She came in Sunday night and wanted to go to the theatre; she did not go to the theatre.
- Q. I asked you if she went to the theatre the night she came in from the country?
  - A. No sir.

- Q. You are sure of that?
- A. Yes sir.
- Q. As sure of that as anything else?
- A. I know she did not go to the theatre.
- Q. Do you know why it was that she did not have her baggage with her that night?
  - A. She didn't have anything but a grip.
  - Q. What did she do with that?
- A. Left it Royal Street. She left it there with a friend of hers named Anna.
- Q. Did you and your sister sleep at Eliza's and Maggie's house?
  - A. Yes sir.
  - Q. Why didn't you take the grip there?
- A. We didn't know whether we would stay there or not.
  - Q. What kind of place does Anna run?
  - A. A rooming house.
  - Q. Is it an assignation house?
  - A. I don't think it is.
  - Q. Is it a private assignation house?
- A. I don't know what it is. I know this girl stayed there.
- Q. Is it not a fact that Ouida Landry was living at that house at the time?
  - A. No sir, Ouida was in Beaumont at that time.
  - Q. How do you know that, Miss Baden?
- A. We came back Sunday night and she was there five days before we were; I know that is what she said.
  - Q. Did you know Ouida in New Orleans?
  - A. Yes sir.
- Q. Do you know where she went when she left New Orleans?
  - A. Beaumont I guess.
  - Q. Ouida was one of your friends in New Orleans?
  - A. We were in the country when she left.

Q. Isn't it true that Ouida and your sisters and you were friends in New Orleans?

A. All we knew about her was that we met her one night in Seebold's.

Q. Were you friends in New Orleans or not?

A. We had only met a short time.

Q. Just state yes or no.

A. Yes sir, we were friends.

Q. Was Ouida a sporting girl in New Orleans?

A. No sir. She was not.

Q. Ouida did not live at Anna's place at any time?

A. No sir, not that I know of.

Q. The place where your sister left her suit case was

kept as a private assignation house?

A. I don't know that it was; there was a woman and her son and this girl lived there. I don't know what kind of house it was.

Q. Before you left you knew that Ouida had come to

Beaumont ?

A. No sir, I didn't know until the next day that Ouida was over here at all.

Q. Didn't you say awhile ago that at that time you

knew that Ouida was at Beaumont?

A. I didn't know it; she was over here five days before we came.

Q. Didn't you know at that time she was here?

A. I didn't know it until the next morning myself. Pauline's daughter told us the next morning. I says "Are there any girls here" and she said there was one girl there. I knew it Tuesday morning after we got there.

Q. Didn't you say awhile ago that you knew Monday

morning that Ouida was in Beaumont?

A. No. sir, I didn't know it.

Q. Ouida did not tell you where she was going to?

A. We were in the country and she did not tell us anything.

- Q. Ouida was at Effie Hoke's place at that time?
- A. Yes sir.
- Q. She was a friend of yours and you didn't know she was here?
- A. No sir. We were in the country when she left for Beaumont.
  - Q. She never wrote to you?
  - A. No sir.
- Q. Did I understand you to say that Pauline or Pauline's daughter told you Monday morning after you got in Sunday night that Ouida was in Beaumont?
  - A. She said Ouida was here.
  - Q. Where was that?
  - A. At Effie Hoke's.
  - O. Here in Beaumont?
  - A. Yes sir.
- Q. The question was if Pauline's daughter did not tell you Monday morning following the Sunday on which you arrived from the country that Ouida was in Beaumont; that is the question, and you said yes?
  - A. No sir, I didn't know it until Tuesday morning.
- Q. You didn't tell some of the State officers and County officers in the latter part of November or the early part of December, about the time you tried to take your clothes out clandestinely in the early morning hours, and was caught with them or discovered and arrested, in making complaints in this case here, didn't you tell them that Pauline or Effie induced you to come to Beaumont, and told you that she was running a sporting house over here, and that sporting girls could wear diamonds and better clothes, and that working girls could not?
  - A. No sir.
  - Mr. Dailey: We object to that question.

The Court: He can ask the witness and I will let her answer it.

- Q. Didn't you tell Mr. Scurlock on the 31st of December, 1910, and subsequent to the time you tried to take your clothing out of Effie's house clandestinely in the early morning hours when she was asleep subsequent to the time of the conversation and on the 3rd day of December, that in New Orleans Effie tried to induce you to come to New Orleans, to come to Beaumont, I should have said, and that she told you she was running a sporting house, and that you could wear fine clothes and diamonds, and working girls could not?
  - A. No sir, I did not.
- Q. Didn't you make that statement to Mr. Scurlock in Beaumont at his office?
  - A. I never told him anything about a sporting house.
- Q. Did you make that statement to Mr. Scurlock in Beaumont in his office or at any place at the time I have stated?
  - A. No sir.
- Q. Did you make that statement to him in substance or effect?
  - A. No sir. I did not.
- Q. And is it not true that you never made that complaint until she or somebody had had you arrested?
- A. No sir, we went up there to see if we could get our clothes, and they wanted to know why we wanted them, and we told them how we came over here.
- Q. Is it not true that you never made that complaint against her until somebody had you arrested subsequent to the time you tried to take your clothes out at an early hour?
  - A. We never said anything about it until after that.
  - Q. You were then sore at her?
  - A. No sir, I was not sore; I just wanted my clothes.
- Q. You didn't make this complaint because you were
  - A. No sir, I did not.

Q. You wanted to leave her house because you wanted to get out of the life you were leading?

A. Yes sir, I wanted to go the next day after I got

there, and I could not get my clothes.

Q. Did you have any clothes when you came over

A. Yes sir, I did.

- Q. You had a grip of clothing when you came over here?
  - A. Yes sir, I certainly did.

Q. You left New Orleans that night with a suit case

or grip containing clothes?

- A. Yes sir, we did. Each of us had a suit case. I didn't have many clothes; my suit case was with me and my trunk was in the country, and I taken a few things out and brought them with me.
- Q. I want to give you a chance to correct this if you want to. Do I understand you to tell the jury and are you positive that each of you had a suit case when you left New Orleans Monday night to Come to Beaumont?
  - A. Yes sir.
- Q. Each one had a suit case containing clothing of your own?
  - A. Yes sir.
  - Q. Where did you get it?
  - A. It had been at Anna's place.
- Q. When you came in Wednesday you took your suit case to Anna's?
  - A. Yes sir, I left it there.
- Q. You got back from the country Wednesday before the Sunday Annette got back?
  - A. Yes sir.
- Q. And you went right straight with your suit case to Anna's place?
  - A. The way it was I had a little hand grip.
  - Q. Did you go and take it there?
  - A. Yes sir, and left it there.

- Q. What street does Anna live on?
- A. Royal and Canal.
- Q. Are you not mistaken about that?
- A. It is only a block from Canal Street.
- Q. Towards Iberville?
- A. Yes sir, it is Royal and Iberville.
- Q. How far from Economides place?
- A. One block around the corner.
- Q. You took your grip and left it there?
- A. Yes sir.
- Q. Did you sleep at Anna's place Wednesday night?
- A. No sir.
- Q. Did you sleep there Thursday night?
- A. No sir.
- Q. Did you sleep there Friday night?
- A. Yes sir.
- Q. Did you sleep there Saturday night?
- A. No sir, I never slept there at all.
- Q. You didn't sleep there Saturday night?
- A. No sir.
- Q. Where did you sleep those nights?
- A. At Maggie and Eliza's.
- Q. Why didn't you take your grip to Maggie's place?
- A. I didn't know I would stay there.
- Q. Why didn't you get it between Wednesday and Monday?
  - A. I just didn't get it.
- Q. Why didn't you get it between the Wednesday
- you came in and the Monday you left there?
- A. I didn't want it; I had a little grip with a change of clothes in it and a big suit case too. I took the little one to Miss Maggie's.
- Q. You took a little one like that, about as big as the hand-satchel you have there?
  - A. Yes sir, a little larger.
- Q. About big enough to put a tooth brush and a ki-

- A. Yes sir, and a suit of clothes.
- Q. You took that grip and left it there at Anna's
- A. Yes sir.
- Q. You left that grip from Wednesday to Monday?
- A. Yes sir, I had a clean suit I worked in and another one.
- Q. You didn't take the trouble to go to Anna's place and get your grip?
  - A. No sir.
- Q. Could you not have taken your grip with your clean clothing to Maggie's place?
  - A. I didn't do it.
- Q. What is the reason you didn't take it to Maggie's place where you were sleeping instead of leaving it at Anna's place where you were not sleeping?
  - A. I never did get it.
  - Q. How far was Anna's place from Maggie's place?
  - A. Eight or nine blocks.
  - Q. Where did you work in the mean time?
  - A. At the Victor theatre.
  - Q. The same old shop?
  - A. Yes sir.
  - Q. You had been gone three weeks?
  - A. Yes sir.
- Q. And you left your grip at Anna's place because you didn't know whether you would continue to live with Maggie?
- A. Yes sir, I left it there and kept putting off to get it every day.
- Q. Could you not have taken it to Maggie's place just as easily as to Anna's place?
  - A. I guess I could, but I didn't.
- Q. When you left there that night you went to Anna's place and got it?
  - A. Yes sir.
- Q. You went by Economides place and on up to Pauline's place?

A. Yes sir.

Q. The reason you wanted to get away from Effie's place was that you wanted to change your mode of life?

A. Yes sir.

Q. Have you changed it since you left there?

A. I have not yet. They wanted to hold us with the court.

Q. Is that the reason you have not changed your mode of life, because they wanted you as a witness in this case?

A. I had to live some place.

Q. Where have you been living since you left Effie's place?

Mr. Dailey objects.

The Court: You can take your exception. The court rules that specific instances of prostitution are not admissible. You can put that in the bill of exceptions.

Mr. Howth: I am just asking the character of life she has led.

The Court: She has already stated the life she led. She has stated that she began after she came here the life of a prostitute and has continued it to this time.

Q. Were you up in Paris attending court when the grand-jury was in session?

A. Yes sir.

Q. Were you put out of the hotel up there for misconduct?

The Court: I will sustain the objection to that on the ground that the witness has already stated that she was leading that kind of life and the details would not be admissible.

Both defendants except.

Q. You testified before the grand-jury?

A. Yes sir.

- Q. How many times did you consult with the District Attorney or his assistant before you went before the grand-jury!
  - A. How is that?
- Q. How many times did you consult with or talk with the District Attorney or his Assistant or both of them before you went before the grand-jury?
  - A. Two or three times.
  - Q. How long did each conversation last?
  - A. Sometimes two hours and different times.
- Q. How many times have you consulted with him this week?
  - A. About three times.
  - Q. How long did each consultation last?
  - A. An hour or two hours.

#### RE-DIRECT EXAMINATION.

## Questioned by Mr. Dailey:

- Q. Counsel asked you if Ouida Landry was living in this house in New Orleans when you took the grip there?
- A. No sir. She was not in town, she was in Beaumont.
- Q. You knew she was not there before you saw her in Beaumont on Monday?
  - A. No sir, on Tuesday.
  - Mr. Howth objects as leading.

Objection sustained.

- Q. Was that the statement you made?
- A. Yes sir.
- Q. In answer to Mr. Howth's question didn't you tell him you knew she was not there because you saw her in Beaumont on Tuesday morning when you got there?
- A. Yes sir, and she said she had been there five days. She had been there five days before we got there.

- Q. Who told you she was here?
- A. Miss Pauline's daughter.
- Q. Where did you see her?
- A. At Effie Hoke's house.
- Q. In Beaumont?
- A. Yes sir.
- Q. After you got here?
- A. Yes sir.

Mr. Howth objects as leading.

The Court: Yes sir, it is leading.

- Q. Now, where is Effie Hoke's house, in what town; is it in Beaumont?
  - A. Yes sir, in Beaumont.
- Q. Did you ever make any complaint to any Federal official against either of the defendants in this case; did you ever go before a Federal official and make a charge against either one of the defendants?
  - A. No sir.
- Q. When did you first know of the institution of this
- A. I didn't know anything about it until after we went to the Court house; we just thought we would get our clothes.
  - Q. What court house did you go to?
  - A. The court house here.
  - Q. What did you go there for?
- A. We went to Jake Giles to see if we could get our clothes and he sent us to the court house to see some-body.
  - Q. You went to the court house to get your clothes?
  - A. Yes sir.
  - Q. You made a statement there?
  - A. Yes sir.
- Q. Now, when did you first know of any prosecution, suit or case against these parties in this court; when was the first time you heard of it?

A. It was about three weeks or a month after we went to the court before I knew anything about it; they sent some papers out.

Q. What was the first thing you knew about it?

A. Some one in the court house told my oldest sister they were going to do something for white slaves.

Q. Where was that?

A. They came down there to Effie's; I went back there and stayed a few days, and Annette and Ouida were staying at the hotel; they went to the court house and they sent them to a lawyer. I don't know how it started. I know they were at the hotel and had to go to a lawyer and back to the court house again.

## Questioned by Mr. Ownby:

Q. Were you ever served with any paper to come to Paris, Texas?

A. Yes sir.

Q. Did you know this case was going to be instituted until that time; this case here?

A. No sir, I didn't know what they were going to do about it.

Q. That was the first you ever knew about it?

A. Yes sir.

Q. You had not done anything towards it yourself, had you or not?

A. No sir.

## GERTRUDE BADEN (alias Gertrude Hays) TESTI-FIED FOR THE UNITED STATES AS FOLLOWS:

## Questioned by Mr. Ownby:

Q. What is your name?

A. Gertrude Baden.

Q. Where were you living about the 14th of November, 1910?

A. New Orleans.

- Q. How old were you at that time?
- A. 16.
- Q. When did you come to Beaumont?
- A. I don't remember exactly the date; I came in November I believe it was.
- Q. You don't remember the date, but it was in November?
  - A. Yes sir.
  - Q. You say you were 16 years old at that time?
  - A. Yes sir.
  - Q. Were you a virtuous girl at that time or not?
  - A. I was not.
  - Q. Had you ever lived in a house of prostitution?
  - A. No sir, I had not.
  - Q. You never had lived in a house of prostitution?
  - A. No sir.
  - Q. Are you acquainted with Mr. Economides?
  - A. Yes sir, I met him twice.
  - Q. Where did you meet him?
  - A. I met him on Canal Street once and once in his saloon.
    - Q. You mean in New Orleans?
    - A. Yes sir.
    - Q. You met him once on Canal Street?
    - A. Yes sir.
    - Q. And once in his wine room?
    - A. Yes sir.
  - Q. You had met Mr. Economides twice before you came to Beaumont?
    - A. Yes sir.
    - Q. Once on Canal Street and once in his wine room?
    - A. Yes sir.
  - Q. How long had you known him before you came
    - A. I suppose three weeks.
    - Q. Well, the night you and your sisters came to

Beaumont where were you and what was the first in-

formation you got about coming here?

A. The first information I got I was at my aunt's and my sister Florence came down after me, and said she was coming to Beaumont. I didn't know what she was coming for. She said for me to come to Economides saloon and a lady there would tell me.

Q. She came to your aunt's and told you she wanted you to go to Beaumont?

A. Yes sir.

Q. Where was it she wanted you to go to?

A. To Economides wine room and see Miss Effie Hoke. My aunt was not at home at the time and I was keeping the house for her.

Q. Who was at Economides place when you got there?

A. Effie and Mr. Economides and my two sisters.

Q. Now, Miss Gertrude, go ahead and tell all you can remember, what was said by Mr. Economides and by Effie Hoke in reference to getting ready to come to Beaumont?

A. He said more to my other sisters than to me. He said they were coming to Beaumont; he didn't tell me anything about it, and later on he said "You are going over to see this lady; she has a private boarding house," but he never said what it was for. He said to Miss Effie "Here is the other girl I was telling you about." He said "This is the other little girl I was talking to you about," and they said "Let's have a drink" and we had a drink.

- Q. Then what else was said?
- A. That is all I remember.
- Q. That is all you remember?
- A. Yes sir.

Q. Did you go anywhere else?

A. Yes sir, we went to Miss Pauline's; I don't remember her other name. It is on St. Louis Street.

Q. What did you do there!

A. We drank some beer, and after that we went into a cab and went to the depot.

Q. You got into a cab and went to the depot?

A. Yes sir.

Q. Was there anything said about the fare being paid over here, and who said it?

A. That was made up at the house.

Q. What was said at the house; was Economides at Pauline's house?

A. No sir, just Miss Effie, Pauline, Theresa and my two sisters and myself.

Mr. Economides: By his attorney, Mr. Luzenberg: We object to what occurred when Economides was not present.

Q. What was said there between any of you?

A. Miss Effie paid Theresa some money and she told us she wished us a good time, and we got into a cab and went down to the station.

Q. Did you take the train there?

A. Yes sir, at the union depot, and that is all I remember until the next morning.

Q. Did you get intoxicated?

A. Yes sir, I was a little.

Q. You were intoxicated?

A. Yes sir.

Q. All you remember about it is that shortly afterwards you went to the depot and took the train, and the next morning you woke up in Beaumont?

A. Yes sir.

Q. Where did you go when you got to Beaumont?

A. Took a cab and went down to Effie Hoke's.

Q. Who did you meet when you got there?

A. We met Lucile, Pauline's daughter.

Q. Was there anything said between you and Miss Lucile before you met Miss Ouida Landry? A. Yes sir, I went in her room.

Q. What was said between you all there?

A. She asked if we knew what kind of place we were in.

Q. What did you tell her?

A. We told her no, they said it was a boarding house.

Q. What did she say?

- A. She said it was a public place.
- Q. A house of public prostitution?

A. Yes sir.

Q. She said that was the kind of place it was?

A. Yes sir, she said if we knew the kind of place it was she knew we would go back, and that our parents would not let us be in the house.

Q. After that did you see Miss Lucile, Miss Pau-

line's daughter?

- A. Yes sir, she said we could not go back until we paid Miss Effie what we owed her. I said I didn't know it was that kind of house.
- Q. She said you could not leave until you paid Miss Effie what you owed her?

A. Yes sir.

Q. She said you could not leave?

A. Yes sir.

Q. What did you do?

- A. We stayed until the next morning and Miss Effice came.
  - Q. Did you have any conversation with Miss Effict
- A. We went down and she made books, and said how much we owed her.

Q. Did you tell her you didn't want to stay there?

A. Yes sir, I told her I did not; that I was not of age and didn't want to stay in that kind of house. She said we had to stay until we paid her.

The Court: This testimony would only be testimony against Effie Hoke and not against Economides. The jury will understand that. All testimony after they ar-

rived in Beaumont would only be testimony against Effie Hoke.

- Q. Effie Hoke told you you could not leave until you paid her what you owed her?
  - A. Yes sir.
- Q. Was anything said there about what your duties would be about the house, what you would have to do?
- A. She said we had to go up stairs with the men that came in.
- Q. When men came in you would have to go up stairs with them?
  - A. Yes sir.
  - Q. What did you say about that?
  - A. I didn't say anything; I thought a lot.
  - O. You thought a lot about it?
- A. Yes sir. I was not used to going with any and everybody that came in.
  - Q. You just had a friend?
  - Yes sir. A.
- Q. Was any force used on you at any time to make
- you go up stairs? A. Yes sir, I was forced once to go up stairs with an
- old man; it was an old man about seventy-five years old; it was an old man about that age. I went in and called him grand-father, and he got highly insulted. The land-lady said I had better take him up stairs and try to get rid of him, and I could not and taken him up stairs and put him in the room and closed the door, and he came down and made complaint and she told me I had better go up there with him, and I put him in the room and kept him in there, and the next morning I went in there, and he said he could not afford to pay me for all night, and he gave me \$2.50.
- Q. Did you have any other duties about selling anything.
  - A. They made us drink soda or something, and she

said if I did not drink it, I would have to go back to the candy factory.

Q. Did they sell it to men?

Mr. Howth: We object to that.

The Court: I sustain the objection. The jury will not consider that.

Q. Was there anything said to you when you went down about going up stairs with men; what would she say about that?

A. She said we had to pay her back what she paid out for us, and we had to go.

Q. That you had to go and meet men, and that was the way to pay it?

A. Yes sir.

Q. How long did you stay there?

A. I think about three weeks; I was the last one there.

Q. Were you there when your sisters and other people tried to get away and some of them did get away?

A. Yes sir.

Q. Go ahead and tell what you know about that?

A. I don't know anything about it, except that a fellow named Handley helped them get out, and the landlady said they were trying to bilk her, and she came to my room and said I was trying to do the same thing, and take my clothes and get them down stairs.

Q. Did she buy clothes for you while you were there?

A. Yes sir, when we would get out of debt she would buy clothes and say we owed her that much more.

Q. When you would get out of debt she would buy you clothes; who from?

A. Some of the peddlers.

Q. She would buy some kind of clothes and claim you owed her again, and you would have to stay there until you paid her?

A. Yes sir.

- Q. After you got in Effie's house did you follow the life of a common prostitute?
  - A. I had to, I could not do otherwise.
  - Q. Have you since!
- A. I have not since; I have not been in Beaumont since we went to Paris.

#### CROSS EXAMINATION.

## Questioned by Mr. Greer:

- Q. How many members of your family are living; how many sisters have you living?
  - A. I have eight sisters.
  - Q. Eight sisters?
  - A. Yes sir; there are only three of us out.
  - Q. All living?
  - A. Yes sir.
  - Q. How many brothers have you?
  - A. One.
  - Q. Are your father and mother living?
  - A. Yes sir, they are.
  - Q. Where are they living?
  - A. At Slidell, La.
  - Q. What occupation is your father engaged in?
  - A. He is a saloon man. He runs a saloon.
  - Q. Where are your other sisters?
  - A. They are at home. There is one married.
  - Q. Are your other sisters younger than yourself?
  - A. Yes sir, all younger except the married one.
  - Q. What year were you born?
  - A. I was 17 on the 22nd of December last.
  - Q. What year were you born?
  - A. In December.
  - Q. What year were you born in?
  - A. I don't know; I don't keep the run of it.

## Questioned by Mr. Luzenberg:

- Q. Miss Gertrude, I understand you say that Miss Florence came to the house and got you?
  - A. Yes sir.
  - Q. Was there any one in the house at that time?
  - A. No sir, just a little boy.
  - Q. How old is he?
  - A. Seven years old, my little cousin.
  - Q. Was there any one else there when you left?
  - A. No sir my aunt was out at the time.
- Q. What time in the day was it that Miss Florence came to get you?
- A. I don't know the time in the afternoon; it was about six o'clock, I guess, perhaps five.
  - Q. What was it she told you?
- A. She said she was going to Beaumont, and I asked what for, and she said she did not know, to go down and a lady would tell me, that was Miss Effie.
- Q. You asked what she was going for, and she said she did not know?
  - A. Yes sir.
- Q. Why did she want you to go down and have a lady tell you?
- A. I don't know. She told me she was going to Beaumont and I ought to go along, and did I want to go along.
- Q. What Florence said was that she was going to Beaumont, and did you want to go along?
  - A. Yes sir.
- Q. You asked her why she was going, and she said if you would come down the lady would tell you?
  - A. Yes sir.
  - Q. You went with her to Mr. Economides saloon?
  - A. Yes sir, I did.
- Q. Did Economides say anything except when you came in he said "Here is the little girl I spoke about"?

- A. That is all I remember; he said "Here is the little girl I was telling you about."
  - Q. You went into the wine room?
  - A. Yes sir, I did.
- Q. Did you notice whether any of the people in there were intoxicated or not?
  - A. My two sisters were a little.
  - Q. Was Miss Effie Hoke intoxicated?
- A. I don't know whether she was or not; I didn't notice whether she was or not.
- Q. You don't mean to say that Mr. Economides was in the room all the time you were in there?
- A. He would go down for a few minutes and then come back up.
  - Q. Sometimes he would leave and come back?
- A. Yes sir. He was not there all during the conversation, but he was there most of the time.
- Q. All you remember his saying was "here is the little girl I spoke to you about?"
- A. He talked more to my older sisters; he didn't have much to say to me.
- Q. When you left the house you closed the house and left the seven year old child there?
- A. Yes sir, his mother would be home about six o'clock.
  - Q. You didn't go back?
- A. When I started to go back they said "don't go, you will be late," and I didn't go.
  - Q. Who said that?
  - A. Miss Hoke.
  - Q. Miss Hoke went to the depot with you?
  - A. No sir.
  - Q. Didn't your sister tell you to hurry up?
  - A. No sir.
  - Q. Did you have a valise?
  - A. I didn't.

- Q. How many valises in the crowd?
- A. A suit case and a little grip.
- Q. Only one suit case?
- A. Yes sir.
- Q. Whose was that?
- A. Annette's.
- Q. Florence didn't have a suit case?
- A. I think she had a hand grip.
- Q. A little thing you could put a comb and brush and a tooth brush in?
  - A. I suppose so, a small one.
  - Q. You had nothing at all?
  - A. No sir.

# CROSS EXAMINATION BY DEFENDANT EFFIE HOKE.

### Questioned by Mr. Howth:

- Q. Give us the names of your sisters?
- A. Annette and Florence Baden.
- Q. What are the names of the other sisters?
- A. Mannie and Maude.
- Q. How old is Mannie?
- A. She is 24.
- Q. Give us the names of the others?
- A. Maude.
- Q. How old is she?
- A. 25.
- Q. The names of the others?
- A. Annette.
- Q. How old is Annette?
- A. She is 21.
- Q. The names of the others?
- A. Florence.
- Q. How old is Florence?
- A. She is 19.
- Q. The names of the others.
- A. Myself.

- Q. You are 181
- A. No sir, I am 17.
- Q. Give the names of the others?
- A. Virginia 15.
- Q. Name the next one?
- A. Essie.
- Q. How old is she!
- A. 12.
- Q. Name the others?
- A. Kate.
- Q. How old is she?
- A. 4 years old.
- Q. Name the balance of them?
- A. My little brother.
- Q. How old is he?
- A. One or 2, I can't keep the run of it.
- Q. What is his name?
- A. Joseph.
- Q. Give us the names of the balance of them?
- A. I have named all of them have I not.
- Q. I don't know; you know better than I do?
- A. The ones I have named is all I think, eight.
- Q. How many aunts have you in New Orleans?
- A. Two.
- Q. What are their names?
- A. One is Branch and the other is the same as ours,
  - Q. What does Mrs. Branch's husband do?
- A. I don't know myself, I don't know what he is. My other uncle works on the railroad somewhere.
  - Q. You mean Mr. Baden?
  - A. Yes sir.
  - Q. Works on the railroad?
  - A. Yes sir.
  - Q. What does he do on the railroad?
  - A. I don't know, he never told me.
  - Q. He works for the railroad company?

- A. Yes sir.
- Q. What is his name?
- A. J. G. Baden.
- Q. How old is your aunt, Mrs. Baden?
- A. I don't know, I think 29. I am not positive.
- Q. Has she any children?
- A. Yes sir, two.
- Q. What are their names?
- A. Norma and Elmer.
- Q. Where does she live?
- A. She used to live on Tulane Avenue; she lives on Bank now.
  - Q. What is Mrs. Branch's husband's name?
  - A. Jack.
  - Q. What does he do?
  - A. I don't know.
  - Q. How old is he?
  - A. I don't know; I never asked his age.
  - Q. About how old would you say he is?
  - A. I don't know how old he is.
  - Q. Have you got any other relatives in New Orleans?
  - A. That is all I have in New Orleans.
  - Q. Did you ever have any other relatives there?
  - A. My parents used to live there.
- Q. Outside of your parents you never had any other relatives there?
  - A. No sir.
  - Q. How long have you been living in New Orleans?
- A. Five months before I came to Beaumont. I have been in Beaumont some time.
- Q. Did you ever live in any other city except New Orleans?
  - A. Yes sir, Slidell.
  - Q. I mean large city?
- A. No sir. I have visited large cities, but I never lived there.
  - Q. What other large cities?

- A. Well, I don't know; Memphis was one.
- Q. Was your father and mother there?
- A. They used to live there.
- Q. Did you live there with them?
- A. I was not born there; my older sisters were.
- Q. Did Annette ever live in Memphis?
- A. Not that I remember she never did.
- Q. You visited Memphis after your parents moved away?
  - A. Yes sir, I was small.
- Q. Who did you visit in Memphis after your parents moved away?
  - A. Some girl.
  - Q. What was her name?
- A. Alma something, my older sister knew her; I went with my older sister.
  - Q. How long did you stay there?
  - A. About a week or four days or something like that.
- Q. You are sure you never had any relatives in New Orleans except the two aunts you have named?
  - A. That is all I remember living there.
- Q. Have you any other relatives except your mother and father?
  - A. Yes sir, in Covington.
  - Q. Who lives there?
  - A. My uncles.
  - Q. Any other relatives except your uncles?
  - A. That is all on my father's side.
  - Q. Are your grand-mothers both dead?
  - A. My grand-mother is not dead on my father's side.
  - Q. Your grand-mother on your mother's side is dead?
  - A. Yes sir.
  - Q. Your grand-father on your mother's side is dead?
  - A. Yes sir.
  - Q. Where does your grand-mother live?
  - A. Just a block from my aunt.
  - O. She lives in New Orleans?

A. Yes sir.

Q. When did she move there?

A. I don't remember how long. My grand-mother lived at my aunt's; I forgot to say my grand-mother lived there.

Q. Have you more than one aunt by the name of Baden?

A. I have some in Covington. That is the only one in New Orleans.

Q. Are you sure of that?

A. Yes sir.

Q. You had forgotten about your grand-mother?

A. Yes sir.

Q. Is it possible you could have forgotten your other aunt?

A. I have no other aunts there by the name of Baden.

Q. You have only one aunt there by the name of Baden?

A. Yes sir.

Q. That is a fact?

A. Yes sir, it is.

Q. Whereabouts does your grand-mother live?

A. State and Patterson, I don't remember the number.

Q. State and Patterson?

A. Yes sir.

Q. Where did you live before you went to New Or-

A. Slidell.

Q. You have only been in New Orleans five months?

A. No sir, five months before I came to New Orleans, I mean Beaumont.

Q. How long have you lived there altogether?

A. I don't know; five or six months. I have been in and out, I never stayed there regularly.

Q. Did you work in New Orleans?

- A. Yes sir, some of the time; I worked at Silverstein & Lopez's dry-goods store, and a candy store. I worked for Silverstein and for Lopez.
  - Q. How long did you work at the Lopez place?
  - A. About a month.
  - Q. What wages did you get there?
  - A. I worked for \$4.50 at first and then \$5.00.
  - Q. You worked there how long?
  - A. A month; those were the only two places I worked.
- Q. At the time you came to Beaumont you were not working?
- A. No sir, I was staying at my aunt's; I didn't have to work.
  - Q. That was Mrs. Branch?
  - A. No sir, Mrs. Baden.
  - Q. What street did she live on
  - A. Tulane and Bank, I don't remember the number.
- Q. Was your sister sober when she came out there to get you?
- A. Yes sir, she appeared to be. She was not sober when she took the train.
  - Q. Was she sober when you got back to Economides?
  - A. Yes sir, she acted like she was.
  - Q. Didn't you say your two sisters were intoxicated?
  - A. Yes sir, when they got on the train.
- Q. Didn't you say, on your direct examination, that when you came back to Economides' place your two sisters were intoxicated?
- A. I didn't say my sister with me was; the other one was.
  - Q. You had two sisters there?
- A. Yes, sir; one was drinking, when I went back, with Economides and Effie.
- Q. Were your sisters intoxicated when you got back to Economides'?
  - A. Yes, sir; one of them seemed to be.

- Q. That was Annette?
- A. Yes, sir.
- Q. You got there about what time?
- A. About 7.
- Q. You got drunk yourself?
- A. I drank with the rest of them.
- Q. You drank whiskey highballs?
- A. Yes, sir; several things.
- Q. Cocktails†
- A. Yes, sir.
- Q. Beert
- A. Yes, sir.
- Q. Had you drank any cocktails before that?
- A. No, sir.
- Q. Did you ever drink beer before that?
- A. Yes, sir.
- Q. Have you been about Billie Seebold's wine room?
- A. Yes, sir.
- Q. Did you drink there?
- A. Yes, sir; sometimes I would drink beer; I went with my sisters and girl friends.
  - Q. What girl friends did you go with?
- A. I went with Aneta Memory is the only one I remember; I would go on upstairs; I would go there with Florence.
- Q. How many times did you go to Billie's wine room with Florence?
  - A. Several times.
- Q. How many times did you go to Economide's with Florence?
  - A. Twice.
- Q. How many times did you go to Jack Robertson's place?
  - A. I never was there in my life.
- Q. Were you ever intoxicated on beer before this oc-
  - A. No, sir.

Q. Were you ever under the influence of it?

A. I never was intoxicated until I mixed drinks that night.

Q. How many glasses of beer does it take to intoxi-

cate you?

A. I don't know; two or three, or one or two.

Q. You have drank beer on frequent occasions before that?

A. Yes, sir; one glass at a time.

Q. You mean to say that when you would go to the wine rooms you would drink only one glass in the evening?

A. We would hardly stay five minutes, and then go

back home or where we were staying.

Q. What was your object in going to that place?

A. I met some girls there that worked in the same factory, and we would go down there together.

Q. Did you meet Effie before you left New Orleans?

A. Yes, sir; I saw her in the wine room there.

Q. You didn't have any conversation with her?

A. No, sir.

Q. She did not speak to you?

A. She said: "Yes; go to Beaumont, and you will have a nice time."

Q. Didn't you say you didn't have any conversation with her?

A. I said Economides.

Q. You did have a conversation with Effiet

A. Yes, sir.

Q. Did you have any conversation with Effie Hoke at the wine room?

A. No, sir; she didn't have so much to say to me; She said she was glad to meet me.

Q. Is that all she said to you?

A. Yes, sir.

Q. Did you have anything else to say to her?

A. No, sir; not at the wine room.

- Q. Did she have anything else to say to you except she was glad to meet you?
  - A. She didn't to me; she talked to my sisters.
- Q. She didn't have anything else to say to you except "I am glad to meet you"?
  - A. Yes, sir.
  - Q. What time did you go to Pauline's house?
  - A. I don't know what time; it was after dark.
  - Q. Effie was drinking?
  - A. Yes, sir.
  - Q. She was pretty drunk, was she not?
  - A. I never said she was drunk.
  - Q. I understood you to say that Effie was drinking?
  - A. She was drinking; I didn't say she was drunk.
  - Q. Was she under the influence of it?
- A. I can't tell when anybody is under the influence, especially a woman.
  - Q. Did she drink more when she got to Pauline's?
  - A. Yes, sir; she drank beer.
  - Q. Did you drink while down there?
  - A. I taken a glass of beer.
- Q. When you left Pauline's house, was Effie drunk or sober?
- A. It seemed she was sober; she didn't look like anybody drunk to me.
  - Q. Was Pauline drunk or sober?
  - A. I don't know; I can't tell when a woman is drunk.
  - Q. Why did you say Effie was sober?
- A. She looked like it; I don't know when they are drunk or sober.
- Q. How can you tell your sister was drunk when you can't tell about the others?
  - A. I knew my sisters, and didn't know the others.
- Q. You are not able to tell the jury with reference to
- A. No, sir; I knew my sisters were a little intoxicated.

- Q. You don't mean to tell the jury that Effie was sober?
  - A. I don't know whether she was drunk or sober.
- Q. Is it not a fact that you never saw Effie Hoke in your life until you came to Beaumont?
  - A. I told you I met her in the wine room.
  - Q. Just answer the question?
  - A. Well?
- Q. Is it not a fact that you never saw Effie Hoke in your life until she returned from New Orleans and met you here in Beaumont?
  - A. Yes, sir; I met her before.
  - Q. When was the first time you saw her?
  - A. When I went to Economides' wine room that Sunday night; it was Monday night.
    - Q. Are you sure of that?
    - A. That is when I met her.
    - Q. What time was it?
    - A. I don't know what time; it was after dark, I think.
  - Q. You went to the country with your sisters, did you?
  - A. No, sir; I don't know anything about that; I was at my aunt's at the time.
    - Q. You didn't go to the country?
    - A. No, sir.
    - Q. Did you go and get your suitcase before you left?
    - A. No, sir; I didn't bring a thing with me.
    - Q. Did you have your clothes sent after you got here?
  - A. No, sir; because I knew my aunt would not send them.
    - Q. Why did you think that?
    - A. I guess she found where we went.
  - Q. Did you know at that time your aunt would not send your clothes?
  - A. I guess she found out about where we were, and what kind of house we were in.
    - Q. You knew that before you left New Orleans?

A. No, sir; I knew after I got to Beaumont; I knew she would not let me come if I went back.

Q. You knew she would not let you come to Beau-

A. Yes, sir.

Q. Why did you think she would not let you come?

A. Because she is strict, and would not let me go out of town.

Q. How did you get a chance to meet your gentlemen friends in New Orleans?

A. I would say I was going to the theatre.

Q. You would go to the theatre, and go to some other

place?

A. No, sir; very seldom; it was in the day time. There was only two fellows I ever stayed with before I come here.

Q. When you would meet those fellows, you would tell your aunt you were going to the theatre.

A. Yes, sir.

Q. You would go to the theatre, and then go some other place?

A. I would sometimes.

Q. You would tell your aunt where you had been?

A. No, sir; I would go to the theatre and would not meet anybody sometimes.

Q. Sometimes you would tell the truth, and at other times you would mislead her?

A. Yes, sir; I wouldn't tell her where I had been.

Q. You would tell her you were going to the theatre?

A. Yes, sir.

Q. You would meet your friends in the day time?

A. Yes, sir.

Q. Where would you meet them?

A. Uptown, at the theatre.

Q. Most of your friends met you in the day time?

A. There was only two fellows that I ever went with before I came to Beaumont; I met those two.

- Q. The balance of your friends, what time did you meet them?
  - A. I met the two friends; I didn't have any others.
  - Q. You never met any strangers?
  - A. No, sir; only those two fellows I knew.
  - Q. Did you sometimes meet them at night?
- A. No, sir; because my aunt went with me most of the time at night.
  - Q. Did you meet them at night sometimes?
  - A No, sir; I did not.
  - Q. Where did you meet your friends in the day time?
- A. Uptown, where we went; we went on a respectable street.
- Q. I speak of the house to which you went, the room you went to?
  - A. It was a kind of rooming house.
  - Q. Who run that house?
- A. I don't know the lady's name; it was on Condulett Street; they knew the lady, and said they used to room there.
- Q. Each one of those fellows knew about the other one, did they?
  - A. No, sir; neither knew of the other.
- Q. They would both take you to the same place, and one did not know about the other one going with you?
  - A. No, sir; they didn't know.
  - Q. Can you tell us what street the house was on?
  - A. Condulett and Julia Street.
  - Q. Which side of the street is it on?
  - A. The left side.
- Q. Was it on the same side of the street the river
- A. No, sir; I don't think it was; I don't know much about that part of town.
- Q. How long ago was the first time you met your friend there?
  - A. It has been-I don't know how long.

Q. Do you know Pauline Wilson there?

- A. I met Pauline the same night I met Miss Effie.
- Q. Was that the first time you ever saw Pauline?
- A. Yes, sir.
- Q. Do you know Carrie Bryant?
- A. No, sir; I don't know Carrie Bryant.
- Q. Did you ever go to a house run by a woman named
- A. I never went with my sisters any place; I seldom went out with them.

Mr. Howth: For the purpose of a bill of exceptions, consider the same questions asked this witness in reference to a venerial disease which I asked the other.

The Court: Yes, sir.

Mr. Howth: We reserve an exception to the Court's ruling.

- Q. I understood you to say when you came to Beaumont you had no idea of the place you were coming to?
  - A. No, sir.
- Q. You didn't know Effie was running a sporting house?
  - A. No, sir; if I had, I would not have been in it
  - Q. You knew what a sporting house was?
- A. I had heard of them; I had heard them spoken of; I never was in one.
  - Q. You knew what an assignation house was, did you?
  - A. Yes, sir; I knew what that was.
  - Q. You knew what a public house of prostitution was?
- A. No, sir; I didn't; I didn't have any idea what it was.
  - Q. Had you not heard of such places?
- A. I had heard of assignation houses is the only kind I had heard of.
  - Q. You knew what that meant, didn't you?
  - A. Yes, sir: I heard what it meant.

Q. You had some idea of what they were?

A. Yes, sir.

Q. Isn't it a fact when you left New Orleans you knew you were going to a sporting house that Effie Hoke run?

A. No, sir; she never said that at all.

Q. Didn't you tell Mr. Scurlock, subsequent to the time you were trying to get out of Effie's house early in the morning along in the first days of December—

A. That was my other two sisters.

Q. Didn't you tell Mr. Scurlock and others at his office and at other places at the time speak of, the 3rd of December, or along about that time, that when you came over here Effie Hoke told you she was taking you to a sporting house, or words to that effect, and that you could make more money in a sporting house, and that sporting girls were thought more of than working girls, and could wear jewels and working girls could not?

A. No, sir.

Q. Didn't you tell Mr. Scurlock at the time and place I speak of substantially that?

A. I did not.

Q. Then you had no idea what kind of a place you were coming to?

A. No, sir; if I had, I would not have come; I didn't

think what it was.

Q. Did you have any curiosity as to the kind of place you were coming to?

A. No, sir; I didn't.

Q. Did you care what kind of place you were coming to?

A. Sure; but I don't think I stopped to think what

kind of place it was.

Q. You had all night on the train to think in?

A. No, sir.

Q. It did not flash across your mind on the train?

A. We were mostly intoxicated on the train, and didn't know what we were doing until the next morning.

Q. The thought never occurred to you what kind of

place you were going to?

A. It never occurred to me until the next day, when the girl told me; my sister did not know what kind of house she was going to.

Q. When your sister asked you to go, she did not

know what kind of place you were going to?

A. I asked her what Economides wanted; I didn't think what kind of place it was.

Q. When your sister came out there to get you about 6 o'clock you were just finishing cleaning the kitchen, and your aunt was away, and she wanted you to quit everything right then and there and leave your clothes and come to Beaumont, or asked you if you wanted to come?

A. She said to me come up and see what the lady

wanted.

- Q. She told you a lady wanted you to go to Beaumont?
  - A. Yes, sir; she didn't try to persuade me.
  - Q. Did anyone persuade you to come?
  - A. It was almost persuasion after I met those people.
- Q. You went at your sister's suggestion, of your own free will?
- A. No, sir; I was almost persuaded to go by Miss Effie Hoke. I went up there to see what she wanted at the saloon.
- Q. Your sister came out there, and you were in the kitchen cleaning up the kitchen?
  - A. Yes, sir.
  - Q. Your aunt was away?
  - A. Yes, sir.
- Q. The idea of going to another city never occurred to you, and your sister came out there and told you a woman at the saloon wanted you to go to Beaumont, or words to that effect?

A. Yes; I asked what for, and she said she did not know.

Q. You left the house and went with your sister?

A. Yes, sir.

Q. The reason you did not take your clothes with you at the time you left the house was because you knew your aunt would not have permitted you to come to Beaumont?

A. Yes, sir; that is the reason I did not tell her

about it.

Q. That is the reason you didn't take your clothes

when you left?

A. I knew she would want to know where I was going, and if I went back she would not let me go; she never wanted me to go out of town.

Q. You intended to leave when you left the house?

A. No, sir; I intended to go back home.

Q. Is it not true, as you have stated, that when you left the house the reason you did not take your clothes was because you knew your aunt would not let you go?

A. I told my sister that I did not want to go to Beau-

mont; I was forced to go, is the reason I went.

Q. You left the house and went to the saloon with the intention of going to Beaumont?

A. I had no intention of going at all.

Q. You went down to the saloon out of curiosity, to find what the woman wanted?

A. Yes, sir; I went to find what she wanted.

Q. You never did find what she wanted, did you?

A. No, sir; it was never told to me that I was going into a house.

Q. You left your aunt's kitchen and went to the saloon out of curiosity, to see what the woman wanted you to go to Beaumont for, and yet you never asked what she wanted you to go for?

A. She said she had a private boarding house.

Q. You said you never asked her what she wanted you to go for?

A. She said she had a private boarding house, and

wanted us to go.

Q. When you met her at the saloon you never asked her what you were to go for, what she wanted with you?

A. No, sir; she didn't tell me; she was talking to

my other sisters.

Q. You never made any inquiry to find what she wanted with you?

A. She told us about a private boarding house she

had at Beaumont.

- Q. When you got to the saloon and didn't find out, why didn't you let her go and go back home?
  - A. She paid the railroad fare and paid our way.
- Q. When you got to the saloon and she didn't tell you what she wanted you to go for, why didn't you go back to the house, and your answer was that she said you owed her and could not leave until you paid her?

A. No, sir; I didn't say that. You ask so many things

it is hard for me to answer.

Q. Didn't you say, in answer to my question, that when you got to the saloon and did not find what she wanted that the reason you didn't go back to your aunt's house was because she said you owed her money?

A. She didn't tell us anything at Pauline's.

- Q. Why didn't you leave the saloon and go back
  - A. They kept forcing us to go.

Q. Who did that?

A. Miss Effie Hoke and Miss Pauline.

- Q. Didn't you say they never said a word to you at the saloon?
  - A. I said at the house; I never said at the saloon.

Q. I asked you why you did not go back home when you got to the saloon and did not find what they wanted?

- A. They said to come and go to the house, and one of my sisters said for us to go to the house, that they wanted to see us over there.
  - Q. Your sister persuaded you to go?
  - A. No, sir; she asked me to go, and I went.

Q. It was because of what your sister said to you that

you came to Beaumont?

A. Yes, sir. I don't say that; I would not have come to Beaumont if I had not been forced to by Miss Effic Hoke.

- Q. What did she do to force you to come?
- A. I didn't have to come, I guess.

Q. Did she force you to come?

A. If it had not been for her, I would not have come.

Q. Did she force you to come?

- A. Yes, sir; she kept telling me to come.
- Q. She forced you to come because she told you to come?

A. Yes, sir.

Q. You thought it was your duty to obey her?

A. I listened to her, as the rest of them did.

Q. It was not because your sister advised you to come that you came over here?

A. No, sir.

Q. Your sister advising you and persuading you to come never had anything to do with your coming?

A. Yes, sir; if she had not come out there I would not

have come.

Q. Effie Hoke never said anything to you at the saloon except "Howdy, I am glad to see you"?

A. Yes, sir.

Q. Why didn't you turn back and go back home?

A. She said to come over to Miss Pauline's.

Q. Didn't you say she never said a word to you?

A. She spoke to my other sisters.

Q. You didn't go to Pauline's house because of anything she said to you; you didn't go to Pauline's house from the saloon because of anything Effie said to you?

A. She was forcing my other sisters to go, and I went

where they went.

Q. You would go where they would go?

A. Yes, sir.

Q. She didn't say a word to you that persuaded you to go from the saloon?

A. No, sir; she forced my other sisters to go; she

didn't say anything to me.

- Q. You went along because she persuaded your sisters to go?
  - A. Yes, sir.
  - Q. Is that right?
  - A. Yes, sir.
- Q. Simply because she persuaded your sisters to go, and that is the reason you went?

A. I followed the oldest ones; they were persuaded and forced, and I went with them.

Q. Your sisters were forced, and you followed their lead; is that correct.

A. Yes, sir; I suppose it is.

Q. You followed in your sisters' footsteps?

A. Yes, sir.

Q. You have been following in your sisters' footsteps all along?

A. No, sir; I have not in New Orleans. I would see

my sisters once in two months.

Q. You followed their lead in New Orleans and out of New Orleans?

A. No, sir; Miss Hoke forced me to come to Beaumont, and I come.

Q. Forced you?

A. Yes, sir; forced me.

Q. Do you remember the occasion when your sisters, or one of them, left the house early one morning before Miss Effie was supposed to be awake?

A. Yes, sir; they could not get away any other way; I didn't blame them; I would leave, too.

Q. You remember the occasion?

A. Yes, sir.

Q. Do you remember that that was about the time the fair was here?

A. There was a fair here while I was here.

Q. The fair was here about the time your sisters tried to leave; isn't that true?

A. I don't know when the fair left; I don't remember.

Q. Do you remember that the fair was here?

A. Yes, sir; it was here since I have been in Beaumont.

Q. While you were at Effie Hoke's house, the fair was going on in Beaumont?

A. Yes, sir.

Q. Do you remember about the time it was here?

A. I don't remember the date.

Q. I mean the occasion?

A. I don't remember when it went away; I never tried to keep up with the dates.

Q. I remember the occasion; do you remember the time it was here?

A. No, sir; I don't.

Q. Do you remember the occasion your sisters left the house early in the morning?

A. Yes, sir.

Q. At the time they were said to have been arrested?

A. They were arrested for vagrancy by Miss Effie Hoke.

Q. I am trying to direct your mind to somehing else: Do you remember one Sunday afternoon; you still stayed at the house after she left?

A. Yes, sir; I had to; I owed them, and was not going to try to run off.

Q. Did you stay there?

A. Yes, sir; I stayed.

Q. How long did you stay there after your sisters left?

A. I don't know how long.

Q. Now, between the time your sisters left the house and the time you left the house, do you remember the time?

- A. I don't remember the dates.
- Q. Is it not true that one Sunday afternoon, after your sisters left, that Effie Hoke personally, in the presence of Hazel Hoke and in the presence of Huck—You know them, don't you?
  - A. No, sir; I don't; I may have seen them.
- Q. In discussing this matter in their presence, didn't you say that you felt that Effie had treated you all right?
  - A. I did not.
- Q. And that you girls were all sporting girls in New Orleans?
  - A. No, sir; I did not.
- Q. That you all came over here because you wanted to come where you could make more money?
  - A. I didn't say that.
- Q. And that they kept ribbing this thing up against Effie?
  - A. I did not.
- Q. Didn't you say that in the presence of Officer Martin?
- A. I am telling you the things I said; I didn't say what you say.
- Q. Didn't you say in the presence of Officer Martin that you were more than 18 years of age?
- A. I said that because I was forced to; I was right in the house by myself, and I was forced to say it.
  - Q. Did you say it?
  - A. Yes, sir; I did.
- Q. And that you left New Orleans of your own free, voluntary will?
  - A. No, sir; I did not.
  - Q. They could not force you to say that?
- A. She said I had better say I was over 18 or there would be something doing.
- Q. They could not force you to say that you left New Orleans of your own free will?

A. No, sir; I said I was over 18 because she forced me to say it.

Q. She did not tell you to say that you left of your

own free will?

A. No, sir; she told me to tell them that I was over 17 years old.

Q. Did Effie buy you any clothes at the Fashion,

Jones' place?

A. No, sir; she bought some from these old peddlers, not worth walking on the street for.

Q. Did she buy any at the dry goods stores?

A. Not that I remember; she might have bought some, some for the other girls, not for me.

Q. Don't you know she bought some for the other

girlsf

A. No, sir; I didn't run their affairs.

Q. They didn't run yours?

A. Yes, sir; they run mine; I didn't run theirs.

#### RE-DIRECT EXAMINATION.

Questioned by Mr. Ownby:

Q. The defendant's counsel, Mr. Howth, asked you if you did not tell Mr. Martin, the policeman, that you were over 17 years old; you said yes; you had to do it?

A. Yes, sir.

Q. Who made yout

A. Miss Effic told me when they came to tell them I was over that.

Q. What did she say?

A. She said I had better say it when they came; 1 1nd better tell them I was over 17.

# MRS. CARRIE BRYANT, A WITNESS FOR DE-FENDANTS, TESTIFIED:

# Questioned by Mr. Luzenberg:

Q. What is your name?

A. Mrs. Carrie Bryant.

- Q. Where do you live?
- A. No. 127 North Rampart Street.
- Q. In New Orleans?
- A. Yes, sir.
- Q. Is your place near the saloon or wine room occupied by William Seebold in New Orleans?
  - A. Yes, sir; across the way.
- Q. You have seen these three girls since you have been a witness in this case—Annette Baden, Florence Baden and Gertrude Baden; have you seen them out in the hall?
  - A. Yes, sir.
- Q. Did you know those girls before you came to this trial?
  - A. They lived with me.
  - Q. How many of them?
  - A. Three of them.
  - Q. What name did they go by then?
  - A. Bedone.
  - Q. What were their first names?
- A. She did not go by the name of Annette, but Annie, and Florence and Gertrude.
  - Q. How long did they live with you?
  - A. Nearly three months.
  - Q. Do you remember what year that was?
  - A. This last July; July to September.
  - Q. Of last year?
  - A. Yes, sir.
- Mr. Luzenberg Asks that the three girls—Annette, Florence and Gertrude Baden—be brought into court, which is done.
  - Q. You see those three girls?
  - A. Yes, sir.
  - Q. You see them now?
  - A. Yes, sir; I see them.
  - Q. Are those the three girls?
  - A. Yes, sir; that is the three.

Q. During the months they were at your house, the months you have mentioned, do you know whether those girls were engaged in any work?

A. They came to me with the understanding that they

were working at First & Kramer's.

Q. Do you know whether they were or not?

A. No, sir.

Q. What was their habits as to leaving the house and coming in at night and getting up in the morning; what hours did they come in?

A. All hours: 2, 3, 4 and 5 o'clock in the morning.

Q. All three of the girls?

A. Yes, sir; all three of them.

Q. What time did they get up as a rule?

A. Around 11 and 12 o'clock in the day.

Q. Did any of those girls have any men company come to your house to see them?

A. No, sir.

Q. Did any men call at your house for them?

A. No, sir.

# CROSS-EXAMINATION.

# Questioned by Mr. Ownby:

Q. You did not serve meals at your house?

A. Yes, sir; I did, but I cut it out; my mother kept the premises.

### RE-DIRECT EXAMINATION.

## Questioned by Mr. Luzenberg:

Q. Did you serve meals when they were at your house when they were there?

A. No, sir; I gave the meals because they didn't

have anything to eat.

Q. You did give them meals?

A. Yes, sir; they didn't have nothing to get anything to eat with.

#### RE-CROSS EXAMINATION.

#### Questioned by Mr. Ownby:

Q. Who didn't?

A. The girls didn't have any money to get themselves anything to eat. I didn't keep any boarders.

Q. You would give them something to eat now and then, because they didn't have any money?

A. No, sir; they didn't have any at all.

Q. How do you pronounce Baden?

A. Bedone, it is French.

Q. Do you know how it is spelled?

A. No, sir; they pronounced their names at the house Bedone.

#### RE-DIRECT EXAMINATION.

### Questioned by Mr. Luzenberg:

Q. Did you give them something to eat every day, or just once in a while?

A. As often as I could catch them in the house and knew they didn't have anything, I would give them something.

#### Questioned by Mr. Howth:

Q. They would run around saloons?

A. Yes, sir; that is why I put them out.

Q. Did you ever see the little girl, Gertrude, intoxicated?

A. No, sir.

Q. Did you ever see Florence intoxicated?

A. Yes, sir; her and Annie.

Q. Did you ever see Gertrude in such a condition as you would describe as drunk?

A. No, sir.

## MRS. J. R. GRINAGE, A WITNESS FOR DEFEND-ANTS, TESTIFIED AS FOLLOWS:

## Questioned by Mr. Luzenberg:

- Q. Your name is Mrs. Grinage?
- A. Yes, sir.
- Q. You live in New Orleans, do you?
- A. Yes, sir.
- Q. Have you any occupation in New Orleans?
- A. Rooming and boarding house.
- Q. Where is that?
- A. No. 621 St. Charles Street.
- Q. That is just a square above Canal Street?
- A. No, sir; five and a half exactly.
- Q. Do you know Annette Baden, Florence Baden and Gertrude Baden !
  - A. Yes, sir.
  - Q. You have seen those three girls here?
  - A. Yes, sir.
  - Q. Since you have been here as a witness?
  - A. Yes, sir.
  - Q. Did those girls, or any of them, ever stop at your house!
    - A. Yes, sir.
    - Q. Do you remember when that was?
    - A. That was in July some time.
    - Q. July?
    - A. Yes, sir.
  - Q. Did they ever stop at any other time at your
    - A. No, sir.
  - Q. Were they in your house in October or November.
    - A. No, sir.
    - Q. Were they there at any time during 1909?
    - A. No, sir.

- Q. The only time they stopped at your house was the first three weeks in July, 1910?
  - A. Yes, sir.
  - Q. Do you know where they went from there?
  - A. No. 127 North Rampart Street.
  - Q. Who kept that house?
  - A. Mrs. Carrie Bryant.
- Q. Do you know whether they were working while at your house?
- A. They came in as working girls, but they were not working.
  - Q. What time, as a rule, did they come in?
- A. All times at night and in the morning; all times of night and all times of day.
  - Q. What do you mean by all times?
- A. They had keys, and could come in whenevr they wanted to.
  - Q. Did you hear them come in?
  - A. Sometimes I did, and other times I did not.
  - Q. What time did they come in?
- A. Sometimes 2 or 3 o'clock in the morning and up to 3:30.
  - Q. What time, as a rule, did they come in?
  - A. Twelve-thirty.
  - Q. Did they have men call at your house to see them?
  - A. Yes, sir.
  - Q. The same men all the time, or different men?
  - A. Different men.
- Q. Was there any reason why those girls left your house?
  - A. Yes, sir.
  - Q. Why was it?
  - A. I put them out.

## Questioned by Mr. Howth:

- Q. Why did you put them out?
- A. Because I could not keep such girls in my house.

- Q. What kind of girls are they?
- A. I could not exactly say.
- Q. What was their reputation while there?

Mr. Dailey objects.

The Court: The question is: What was their reputa-

Q. From what you heard people say of them, and what you saw of them yourself, do you know what kind of girls they were with reference to being virtuous or street-walkers or prostitutes?

A. They were not virtuous girls.

Q. Did they have the reputation of being street-walkers or prostitutes?

A. Well, yes, sir; after they came into my house.

Mr. Dailey: That is not reputation, what she saw herself. Reputation means what other people say about them.

Q. Did you ever hear other people speak about those girls?

A. Yes, sir.

Q. What was the reputation of those girls among the people that knew them in New Orleans?

A. Nothing at all, the way they spoke.

Q. That they were prostitutes or virtuous girls?

A. That they were not virtuous girls?

Q. Was their reputation that of prostitutes?

A. I heard they were.

Q. Common prostitutes?

A. Yes, sir.

Q. Do you know what a street-walker is from what you have heard them say?

A. A street-walker certainly is a prostitute.

Q. Were they street-walkers?

A. Yes, sir.

- Q. Did you hear about their visiting wine rooms?
- A. No, sir.
- Q. Do you know what the reputation of wine rooms in New Orleans is as to the character of people that frequent those places?
  - A. Street-walkers visit wine rooms.
  - Q. Street-walkers and common prostitutes?
  - A. Yes, sir.
- Q. Do you know what kind of place Miss Carrie Bryant keeps?
  - A. No, sir.
  - Q. By reputation?
  - A. No, sir.
  - Q. Have you ever heard her place discussed?

Mr. Dailey: We object to that. He is trying to impeach his own witness.

Objection sustained.

Mr. Howth: We can state the purpose in our bill of exceptions, and we can state what we expect the witness to testify?

The Court: Yes, sir.

- Q. Are those three girls sisters?
- A. Yes, sir; those three are sisters.
- Q. Did you tell me at any time that one was not the sister of the other two.
- A. These are not the ones; I meant another one besides these three.
- Q. Do you know what the reputation of these girls was in Slidell where they came from?
  - A. No, sir.
- Q. Did anybody from Slidell speak to you about them?
  - A. No, sir.
  - Q. Do you know Dr. Little?
  - A. Yes, sir.

Q. Did you ever hear him speak of them?

Mr. Dailey objects, as immaterial and irrelevant and not the proper way to prove reputation.

Objection sustained.

Defendants except.

#### CROSS-EXAMINATION.

#### Questioned by Mr. Ownby:

Q. Do you know Mr. Economides?

A. Yes, sir; I have known him only since this case came up.

Q. Do you know where his saloon is?

A. No, sir.

Q. You don't know anything about that?

A. No, sir.

Q. Did you know him at all before this case?

A. No, sir.

# THERESA FLOOD TESTIFIED FOR THE UNITED STATES AS FOLLOWS:

#### Questioned by Mr. Dailey:

Q. State your name to the jury.

A. Theresa Flood.

Q. Where were you living in November of last year?

A. No. 1725 Orleans Street.

Q. New Orleans, La.?

A. Yes, sir.

Q. When did you come to Beaumont?

A. I left Beaumont, or I mean New Orleans, Monday night and got into Beaumont Tuesday morning at seven o'clock.

Q. You left Monday night?

A. Yes, sir; at 9:15 or 9:30.

Q. Did anybody come to Beaumont with you?

A. Yes, sir; three other girls besides myself came to Beaumont with me.

Mr. Luzenberg: We wish to note the same objection as to the defendant Economides.

Objection overruled.

Defendants except.

Q. Who was it came with you?

A. Annette Hays, Florence Hays and Gertrude Hays.

Q. Where did you see them first that day?

A. I met them that night about 7:30 at Pauline Wilson's.

Q. Were you at Pauline Wilson's.

A. Yes, sir.

Q. Who else was at Pauline Wilson's that night?

A. Noobody else that I know of.

Q. Were you there when the girls came?

A. Yes, sir.

Q. What time did they come?

A. Well, about fifteen or twenty minutes before we left for the train.

Q. Who was there at the house when they came; did they come by themselves; do you know how they came there?

A. They came there in a taxicab, the three girls by themselves.

Q. Who was at the house when they came besides yourself?

A. Miss Effie Hoke and Pauline Wilson.

Q. When these girls came in, what was their condition with reference to whether they were drinking or not; could you tell?

A. No, sir, I could not tell; I just met them.

Q. You don't know what condition they were in as to drinking?

A. No, sir.

Q. Was there anything said as to coming to Beaumont?

A. No, sir; one said they were coming with me; I was there and coming to myself, and these girls came with me.

Q. Did Effie Hoke say anything about the girls coming to Beaumont?

Mr. Howth objects, as leading.

Objection overruled.

Defendants except.

The Witness: Why, yes, she told me they were going, and when I got there that evening the housekeeper told me.

Q. Don't tell what the housekeeper told you; what did Effie Hoke tell you, if anything, after the girls came?

A. That she had two girls, and perhaps three, and she wanted me to take them over with me.

Q. Wanted you to do what?

A. Take them over with me, as I was coming over.

Q. Over to Beaumont?

A. Yes, sir; Beaumont, Texas.

Q. When was that?

A. On the 14th day of November?

Q. Had the girls gotten there at that time or not?

A. No, sir; they had not gotten there yet.

Q. Go ahead and tell what occurred there after the girls came and before you left for the train as you remember it.

A. All I remember is that I was introduced to Effie and we didn't have much time, and we had to go to the train and the money was handed to me.

Q. What money?

A. To pay the girls' fare.

Q. Who handed you the money?

A. Effie Hoke.

- Q. How much money did she give you?
- A. Forty-five dollars.
- Q. Did she tell you what she wanted you to do with the money?
  - A. Buy the tickets.
  - Q. For these girls?
  - A. Yes, sir; I paid my own fare with my own money.
  - Q. How were the girls dressed when they came there?
  - A. I know all of them had shirt waists and skirts on.
- Q. Was there any change made in the dress of the girls there?
  - A. Yes, sir; their hats.
  - Q. Whose hats were changed?
- A. Annette's and Gertrude's; in fact, Gertrude did not have a hat.
  - Q. Where did she get a hat?
  - A. Miss Pauline Wilson gave her one.
- Q. You say they gave Annette another hat; who gave that to her?
  - A. Miss Effie Hoke.
- Q. Did Effie tell you where to take the girls when you left New Orleans?
  - A. Yes, sir; she told me to take them to her house.

Mr. Howth: We object to that as leading.

Objection overruled.

Defendant excepts.

- Q. Answer the question; what did you say?
- A. Yes, sir; she told me to take them to her house on Bonham Street.
  - Q. In what place?
  - A. The Reservation.
  - Q. In what city?
  - A. Beaumont, Texas.
- Q. Go ahead now; after the hats were changed, where did you go?
  - A. Right on to the Union Station in New Orleans.

- Q. What took place there?
- A. I bought the tickets.
- Q. Over what roads?
- A. The Southern Pacific.
- Q. Did you get on the train?
- A. Yes, sir; got right on the train.
- Q. You came on from New Orleans to Beaumont?
- A. Yes, sir; and got in here at seven-something Tuesday morning.
  - Q. What coach did you come in?
  - A. In the chair car.
- Q. Did you stay in the same car from New Orleans to Beaumont?
  - A. Yes, sir.
  - Q. What time did you get to Beaumont?
  - A. At 7:15 or 7:30.
- Q. Where did you go to after you got to the depot at Beaumont?
  - A. Took a cab and went to Miss Effie Hoke's.
  - Q. Is that a house of prostitution in this city?
  - A. Yes, sir; it is.
  - Q. How long did you stay at this house?
  - A. Aboout a month and a half.
- Q. Who left first, these girls or you, these four girls—Annette, Florence, Gertrude and Ouida Landry?
  - A. They did.
  - Q. You were living in the house at the time they left?
  - A. Yes, sir; I was.

# CROSS-EXAMINATION BY DEFENDANT EFFIE HOKE.

## Questioned by Mr. Howth:

- Q. Do you know what kind of place Carrie Bryant ran?
  - A. No, sir; I do not.
  - Q. On North Rampart Street?

A. No, sir; I do not know her at all.

Q. Do you know what part of town 127 North Rampart Street is?

A. No, sir; I do not.

Q. Do you know where Billie Seebold's wine room is?

A. No, sir; I do not.

Q. You don't know whether that is outside of the restricted district or not?

A. No. sir; I never was in it.

Q. Do you know a woman named Anna?

A. No, sir.

Q. Do you know her reputation?

A. No, sir.

Q. Do you know Carrie Bryant's place by reputation?

A. No, sir.

Q. What house were you in over there?

A. I was at home with my folks.

Q. You were not a sporting woman in New Orleans?

A. Yes, sir.

Q. What house were you in there?

A. I visited them all.

Q. The assignation houses?

A. Yes, sir.

Q. You had never known these girls before?

A. No, sir; I never met them before that night.

Q. Did they tell you their names?

A. Yes, sir; they told me their names were Annette Hays, Florence Hays and Gertrude Hays.

Q. Did they tell you that was the names they were going by in New Orleans, and that their names was Baden?

A. No, sir.

Q. Where did they tell you that was their names; what place were they?

A. On the train.

Q. Did you ask their names?

A. No sir, they asked my name and I told them, and they gave me their names.

- Q. They told you their name was Hays?
- A. Yes sir.
- Q. Did they know they were going to a sporting house in Beaumont†
  - A. I could not tell you; I didn't ask them.
- Q. They were present when Effie told you to take them to Beaumont to the reservation?
  - A. Yes sir.
  - Q. They heard that statement.
- Q. Would they not know from that statement that they were going to a house of prostitution?
  - A. I guess they did.

Mr. Ownby: We object; that would be a conclusion of the witness.

The Court: She has answered it; you can cross examine her if you desire.

- Q. The girls heard Effie Hoke say and were present when she said for you to take them to her house in the reservation?
  - A. She didn't say reservation, she said her house.
- Q. You said on direct examination that she said for you to take them to her house in the reservation?
  - A. Yes sir, I made a mistake.
  - Q. How did you come to make that mistake?
  - A. I just made a mistake.
- Q. Is it not a fact that those girls told you that they had been wanting to leave Beaumont, wanting to leave New Orleans because they could not make anything there in the sporting business?
  - A. No sir, they did not.
  - Q. What did they say in that connection?
  - A. They never spoke to me on that subject at all.
  - Q. What was the conversation coming over here!
- A. They never said much at all. I was asleep myself all the way; I went to sleep.

- Q. You went to sleep?
- A. Yes sir.
- Q. Were you drinking that night, Theresa?
- A. No, I was not drinking.
- Q. Did you notice whether the girls were drinking or
  - A. No sir, that was the first time I met them.
  - Q. Effic was drinking was she not?
- A. Yes sir, Miss Effie was drinking, so was Pauline Wilson.
  - Q. Was Effie drinking considerable?
- A. I could not say, she did not drink much at the house.
- Q. She appeared to be under the influence when she came to the house?
- A. Yes sir, they were both under the influence of liquor.
- Q. I understand you to say that those girls came to the house by themselves?
  - A. Yes sir, in a taxicab by themselves.
  - Q. What time in the day did they come there?
  - A. Near train time.
  - Q. A short time before train time?
  - A. Yes sir, 15 or 20 minutes.
  - Q. The train left at nine o'clock?
  - A. Yes sir, 9:30 or 9:50 I don't know which.
  - Q. Pauline runs a sporting house, does she not?
  - A. Yes sir, an assignation house.
- Q. Did you girls drink anything between seven and the time you left the house to go to the depot?
  - A. I didn't.
  - Q. Did you drink anything?
  - A. No sir.
  - Q. You didn't?
  - A. No sir.
  - Q. Did Pauline drink anything?
  - A. Yes sir, I think so; they all drank.

- Q. They all drank?
- A. Yes sir.
- Q. Did Gertrude drink?
- A. Yes sir, Gertrude and all of them drank.
- Q. How many drinks did Gertrude take?
- A. I didn't pay any attention to it; I don't know how many.
- Q. Did you notice whether she took one drink and quit or took several drinks?
- A. No sir, I suppose she took several; there were several bottles brought in.
  - Q. Florence drank several bottles?
  - A. Yes sir.
  - Q. And Annette several bottles?
  - A. No sir, not several bottles; I mean glasses.
- Q. Pauline and three girls were in the parlor drinking?
  - A. Yes sir.
- Q. What was the line of conversation between seven and nine before you took a cab and went to the depot; what was talked about?
- A. The only thing that was talked about was that we would go to Beaumont together. I got an introduction to the girls and Miss Effie gave me the money to pay their way.
  - Q. What was the subject of the conversation?
  - A. I forget, I don't know.
- Q. You certainly did not sit there two hours and look at each other without saying anything?
  - A. No sir, I don't remember the conversation.
- Q. You tell the jury you can not remember what was said?
  - A. No sir.
- Q. You don't remember what was the subject of the conversation?
- A. No sir. I knew where I was going, but I don't know whether these girls did or not.

- Q. How did you refer to the house; what did you call the house in referring to it?
  - A. I don't know.
  - Q. You wanted to come over here!
  - A. I came of my own accord.
  - Q. You knew Ouida Landry was here!
- A. No sir, I didn't know her. I never met her until I got to Beaumont.
- Q. Do you know whether or not those girls knew Ouida Landry?
  - A. No sir, they never said anything to me about her.
  - Q. You came on your own accord?
  - A. Yes sir.
- Q. You came over here because you thought you could make more money over here?
  - A. Yes sir, sure.
- Q. You had heard that Beaumont was a good town for sporting girls?
  - A. Yes sir, I had.
  - Q. You heard that?
  - A. Yes sir.
  - Q. Where did you hear that?
  - A. In different places.
- Q. That Beaumont was a good place for sporting girls?
  - A. Yes sir, that any part of Texas was.
- Q. New Orleans is considered a bad place for girls of that sort?
  - A. I don't know because I did not go around there.
- Q. Don't you know as a matter of fact that it is a poor place for girls to get along because there is so many of them?
  - A. If she wants to make a living right she can.
  - Q. If she wants to make a living right?
  - A. Yes sir.
  - Q. How would she make it?
  - A. Go out and see different men.

- Q. I will ask you this question, if the money you make in that way in New Orleans is not less than it is in Texas?
  - A. Yes sir.
- Q. That is generally known among the girls in New Orleans, is it not?
  - A. I guess so.
- Q. Now, these wine rooms are places where street girls go to pick up men?
  - A. I could not tell you anything about that.
  - Q. Isn't that the reputation of the wine rooms?
  - A. Yes sir.
  - Q. You know that to be a fact?
  - A. Yes sir.
- Q. That they are places where men go to pick up girls, and where the girls go to be picked up; isn't that true?
  - A. I could not tell you anything about it.
  - Q. I mean from the reputation of the places?
  - A. Yes sir, from what I have heard of them.
  - Q. You never go to the wine rooms?
  - A. No sir.
- Q. You were never in a wine room in New Orleans in your life?
  - A. No sir.
- Q. How did you get in communication with your men friends over there?
- A. I was sent for by the ladies who run the places of assignataion.
- Q. They would know the names of the girls who did these things?
  - A. Yes sir. They have their telephone numbers.
  - Q. They would send for them for different men?
  - A. Yes sir.
  - Q. Did some of the girls walk the street?
- A. I don't know. Some of them have that reputa-

- Q. Did Effie tell you that her house was a sporting house?
  - A. Yes sir.
  - Q. Where did she tell you that?
  - A. When I met her Sunday night at Miss Pauline's.
  - Q. Effie had been there some days?
  - A. Yes sir, she had.
  - Q. She had been in New Orleans ten days?
  - A. I don't know how long.
  - Q. She had been there some days?
  - A. Yes sir, I guess so.
- Q. How long have you been a sporting girl in New Orleans?
  - A. Four years.
- Q. I will ask you if it is not true that some girls who play the assignation houses and walk the streets do not have runs of hard luck, and don't make any money for a period of time?
  - A. Yes sir, sometimes.
  - Q. They have a stroke of hard luck?
  - A. Yes sir.
- Q. And don't hardly make enough to clothe and feed themeslves?
  - A. Yes sir.
- Q. I will ask you if it is not true that New Orleans is overrun with sporting girls?
  - A. I guess it is.
  - Q. They get out of there when they have a chance?
  - A. I guess some of them do, I don't know.
- Q. It is known among the sporting girls there that New Orleans is a hard place for sporting girls?
  - A. I don't know.
  - Q. You never discussed that with the girls?
  - A. No sir.
- Q. As a matter of fact from your own knowledge and observation don't you know it is a hard place for a girl to make a living?

A. Yes sir.

Q. And that Texas is a far better place?

A. Yes sir, in a way it is. In other ways it is not.

Q. I mean in reference to making money?

A. You have as hard a time in Texas as in New Orleans.

Q. You have hard luck everywhere once in a while?

A. Yes sir.

Q. Did the girls tell you why they changed their names from Baden to Hays?

A. They never changed,—they never said they changed their names at all.

Q. Did they tell you anything about their previous habits there?

A. No sir.

Q. They never discussed that at all?

A. No sir.

Q. Now, you met them at Pauline's place Sunday?

A. Yes sir, Sunday night.

Q. Did you stay at Pauline's place Sunday night?

A. No sir, I did not.

Q. What time did you leave Pauline's place Sunday night?

A. About ten o'clock, I don't remember.

Q. Was Effie there during the time you were at Pauline's place?

A. Yes sir, she was all the time.

Q. What time did you go back to Pauline's place?

A. I went there about four o'clock in the evening first.

Q. You stayed there until you went to the train?

A. No sir, I went off and came back about six o'clock.

Q. You went at four and stayed until six?

A. No sir, I left and came back at six; I just went there to see Miss Effie and Pauline and neither of them was at home.

- Q. You then came back at six o'clock and found both of them there?
  - A. Yes sir.
- Q. Did you see anybody else there at Pauline's Sunday evening between six and ten o'clock?
  - A. No sir.
  - Q. Now, that was Monday was it not?
  - A. When I went there again?
  - Q. Yes?
  - A. Yes sir, when I went back again.
- Q. At six o'clock Monday evening both Effie and Pauline were at Pauline's house?
  - A. Yes sir.
- Q. Now what time was it that these girls came there; I believe you have already stated that?
  - A. Yes sir.
  - Q. About seven o'clock?
  - A. Yes sir.
- Q. Then from six to seven you and Pauline and Effie were at Pauline's house?
  - A. Yes sir.
  - Q. And you drank some?
  - A. Pauline drank.
  - Q. While there Effie drank?
  - A. Yes sir.
  - Q. Do you remember how many bottles Effie drank?
  - A. No sir.
  - Q. There were several?
  - A. I don't remember how many.
- Q. Between six and seven o'clock on Monday afternoon how many bottles did Effie drink, would you say?
  - A. I don't know how many they drank.
  - Q. From seven to nine they all drank?
  - A. Yes sir, they were all drinking.
  - Q. Effie continued to drink?
  - A. Yes sir, they all continued to drink.
  - Q. Every few minutes they ordered bottles?

A. I guess at intervals they did.

Q. They kept up from about six to fifteen minutes before train time, which was 9:30, about three hours, and you say Effie was drinking when she came there?

A. Yes sir, she and Pauline were both drinking.

Q. You could see she was under the influence of liquor.

A. Yes sir.

Q. Now what you have related on direct examination about the money was said there?

A. Yes sir.

Q. All that was said about the money was said in the presence of Effie Hoke, and you have stated that on direct examination?

A. She gave me the \$45.00 to pay the girls' fare. She said I was the oldest girl and had traveled more, and she handed me the money.

Q. That was all that was said?

A. Yes sir.

Q. You are sure of that?

A. Yes sir, I am sure of that.

# OUIDA LANDRY TESTIFIED FOR THE UNITED STATES AS FOLLOWS:

## Questioned by Mr. Dailey:

Q. State your name to the jury?

A. Ouida Halcomb. I went by the name of Landry here.

Q. Ouida Landry is the name you went by here?

A. Yes sir.

Q. When did you come to Beaumont?

A. I think the 11th of November, somewhere along there.

Q. About the 11th of last November?

A. Yes sir.

- Q. Where did you come from?
- A. New Orleans.
- Q. How did you happen to come over here?
- A. I was at Miss Pauline Wilson's house and met Miss Effie Hoke.
  - Q. Where was her house?
  - A. 908 St. Louis Street.
  - Q. New Orleans?
  - A. Yes sir.
- Q. You were visiting her house and there met Effie Hoke?
  - A. Yes sir.
- Q. What did Effie tell you, if anything; did she tell you anything?
  - Mr. Howth: Is she charged with persuading this girl?
  - Mr. Dailey: No sir.
  - Mr. Howth: We object to that testimony.

The Court: The question is what the defendant told the witness.

Mr. Howth: The evidence shows she was at Beaumont at the time the girls got here.

The Witness: I was at Miss Pauline's when Miss Effie came there; I was visiting there, and Miss Effie told me she came to New Orleans to get some girls.

Q. When was that?

A. In November. She said there would be a big carnival here and she wanted some girls, and she said if I knew any girls she would give me \$10.00 apiece to get them. I told her I didn't know any girls, and she asked me if I wanted to come, and I told her I didn't want to come, and Miss Pauline said, "You go over there, and if you don't like it, I will pay your way to come back," and Miss Effic told me herself if I didn't like it, I could come back.

Q. When did you come over here?

A. I got here November 12.

Q. Where did you go after you got here?

A. I don't know the number of the house, Effie Hoke's on Bonham Street.

Q. What kind of house is that?

A. It is a public house of prostitution. She told me before I left New Orleans that she had a private assignation house.

Q. She told you before you left New Orleans that she had a private assignation house, but the house she was keeping was a public house of prostitution?

A. Yes sir.

Q. Do you know Gertrude Hays, Annette Hays and Florence Hays?

A. Yes sir.

Q. When did you first know them?

A. I knew them three or four weeks before I came over here. I knew Gertrude longer than any of them.

Q. Did you see them after they came to Beaumont?

A. Yes sir.

Q. Where did they go?

A. They came to Miss Effie's house.

Q. How is that?

A. They came to Miss Effie's house on Bonham Street.

Q. What time did they get there?

A. I don't know what time; it was early in the morning. I was in bed asleep, and Miss Effie was not there, and Miss Lucile, Pauline's daughter asked me—

Q. Don't say anything she said; when did you first

see the girls there?

A. That same morning.

Q. What time?

A. Half past seven or eight.

· Q. Where did you see them?

A. They came into my room.

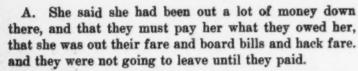
- Q. They came in your room?
- A. Yes sir.
- Q. Did you have any conversation with them?
- A. Yes sir, I said "What are you doing here," and they said they came over here to go to work, and I said "My goodness, this is a fine place to go to work," and they said why and I said, "This is a house right down in the District, and they said they didn't know it.

Mr. Howth: We object to the statement made out of the presence of the defendant, Effie Hoke.

The Court: She can answer as to whether she informed them what kind of house it was, but what the girls said I exclude from the jury.

Both defendants except.

- Q. Now, where was Effie Hoke when these girls got there Tuesday morning?
  - A. She was at Miss Pauline Wilson's house .
  - Q. She was not here?
  - A. No sir.
  - Q. She was not at her house in Beaumont?
  - A. No sir.
- Q. When did she come with reference to the time the girls came?
  - A. I think the next morning or the day after that.
  - Q. Either the next morning or the day after that?
  - A. Yes sir.
- Q. Did you hear any conversation between any of these girls and Effie Hoke?
- A. Yes sir, I heard them tell her they wanted to go home, and she said she was out about \$500.00 on her trip to New Orleans.
- Q. You say you heard the girls say they wanted to go home?
  - A. Yes sir.
  - Q. What did she say?



Q. That she had been out five hundred dollars on a trip to New Orleans to get girls?

Mr. Howth objects as leading.

Objection sustained.

Q. Now, did they become inmates of that house of prostitutes, house of prostitution?

A. Yes sir.

Q. They lived there and became prostitutes in this town?

A. Yes sir. They had to stay there; they could not get away.

Q. How long did they stay there?

A. Florence and myself left the first of December.

Q. You and Florence?

A. Yes sir.

Q. What time did you leave?

A. Five o'clock in the morning.

Q. Why did you leave at five o'clock?

A. Because the night before I went down stairs, and Miss Effie shoved me across the hall and balled me out, and a man says "Why don't you leave," and I said I owed Miss Effie a bill and I could not leave.

Q. Don't state what the man said?

A. She balled me out.

Q. Who did?

A. Miss Effie did because I came down stairs in my wrapper; she said no one was allowed down there unless they had tight clothes on; I came down to turn in some money, and I went up stairs crying and a man said "Why don't you leave, I will help you get your suit case out."

Mr. Howth objects.

The Court: I sustain the objection to what the man said.

- Q. You say you and Florence left there about five o'clock in the morning?
  - A. Yes sir.
  - Q. Where did you go?
  - A. The Neches Hotel.
  - Q. Did you go to the hotel?
  - A. Yes sir.
  - Q. Were you arrested that day!
- A. Yes sir, the officers came up and took us out and to the station.
  - Q. What time were you arrested?
  - A. About six o'clock in the morning.
  - Q. Who arrested you?
- A. I don't know, sir; I think one of them was Teddy, the big, stout officer.
  - Q. A policeman?
  - A. Yes sir.
- Q. Now you say when you heard this conversation when Effie Hoke came back, and when the girls came and told her they wanted to go back home, and she told them she would not let them go back home until they paid her?
- A. Yes sir, she was sitting down there and counted over what they owed her, but I could not tell you what it was. She said they owed her hack fare and a week's board and their way over here. I went out of the room about then, and did not hear what she said they owed her.
  - Q. You didn't hear the total amount?
  - A. No sir.

## CROSS EXAMINATION

Questioned by Mr. Howth:

- Q. You are an old timer in the business?
- A. No sir, I certainly am not.

- Q. How many different stage names have you had?
- A. I have had two.
- Q. Only two?
- A. I have had three, because I changed my name when I went to Galveston.
- Q. You changed your name when you came to Galveston and when you went to Beaumont?
  - A. Yes sir.
- Q. You changed your name when you went from home to New Orleans and went into the business?
  - A. Yes sir.
  - Q. You have had three changes of name?
  - A. Yes sir.
- Q. What was your name in New Orleans when you were sporting around New Orleans?
  - A. I never sported around New Orleans.
  - Q. What name did you have there?
- A. I went by the name of Patterson. I changed my name every time I turned around.
- Q. I supposed you did is the reason I asked you how many times you changed your name, how many names you had?
  - A. I was over in Mississippi.
- Q. The first place you went from Mississippi was New Orleans, was it?
  - A. Yes sir.
  - Q. You took the name of Patterson there?
  - A. Yes sir.
- Q. How long did you go by the name of Patterson there; that was not your real name, was it?
  - A. No sir.
  - Q. You took that name and carried it how long?
- A. I never did stay in New Orleans very long at a time; I would stay a couple of weeks at a time and go back home.
  - Q. You took another name?
  - A. No sir, I took the same name.

- Q. You went by the name of Landry?
- A. No sir, I took that name when I came here.
- Q. You were Patterson in New Orleans and Landry here?
  - A. Yes sir.
  - Q. When you went to Galveston you took what name?
  - A. Raymond.
- Q. You had the name of Patterson in New Orleans, Landry in Beaumont and Raymond in Galveston?
  - A. Yes sir.
  - Q. Where are you now living?
  - A. I am not living anywhere in particular now.
  - Q. Where did you come from to Beaumont?
  - A. 1126, No. 1226 Post Office Street, Galveston.
  - Q. Did you have the same name, Raymond, there?
  - A. Yes sir.
- Q. Are you stopping at a sporting house or a hotel here?
  - A. At a hotel.
  - Q. What name did you register under?
  - A. Landry.
- Q. What name did you have when you went down to
  - A. Patterson.
- Q. You had the name of Patterson when you were in Panama?
  - A. Yes sir.
  - Q. Did you go there by yourself?
  - A. No sir, I did not.
  - Q. Who did you go with?
  - A. A friend of mine.
  - Q. Man or woman?
  - A. A man.
  - Q. Were you married to him?
  - A. No sir, I was not married to him.
  - Q. Were you passing off as his wife?
  - A. Yes sir.

The Court: Since you came from New Orleans to Beaumont have you been living the life of a prostitute?

The Witness: Yes sir.

The Court: You are now doing that?

The Witness: Yes sir.

The Court: I will exclude the evidence as to particulars. I will give you a bill of exceptions. I will exclude the balance of it. She has admitted that she is a prostitute.

Mr. Howth: We can place in the bill of exceptions what we expect to prove?

The Court: There will be no trouble about that.

Q. Will you tell the jury what is the difference between a private assignation house and a public assignation house?

A. I don't know what is the difference.

Q. You don't know the difference between a private place and a public place?

A. I know a private place everybody don't go, but a

public place everybody goes there that wants to.

Q. You mean in a private place, if a man looks all right, even though he is a stranger, he is permitted to come in?

A. Yes sir, I guess so.

Q. Is that the only difference?

A. I don't know; I never did live in either a private place very much.

Q. You never did live in either a private or a public place very much?

A. No sir, I never did.

Q. Did you follow that business in New Orleans before you came to Texas?

A. I was at Pauline's place; I went there to visit her house-keeper; I didn't go there to make money; I knew

her house-keeper; she used to have a place on Rampart Street, and I would go there to see her and stay a week at a time; I never made any practice of going there.

Q. You didn't follow the business of prostitution in

New Orleans?

A. No sir.

- Q. You used to go to Pauline's place and spend a week or two at a time?
  - A. Yes sir.
  - Q. Visiting the house-keeper in the house?
  - A. Yes sir.
  - Q. Pauline run an assignation house, didn't she?
  - A. Yes sir.
  - Q. She had a house of prostitution, didn't she?
- A. She had girls there all the time. Her two daughters were living with her when I was there.
- Q. Her daughters were in the business, were they not?

The Court: I have excluded that. I don't think that line of inquiry is admissible. I think the general statement the witness has made as to her vocation gives the jury an opportunity to weigh her testimony. I would not permit any other testimony along that line. I will give you a bill as to that.

Mr. Howth: I will state what I expect to ask her. The defendant, Effie Hoke, while interrogating witness as to the different houses of assignation and prostitution in which she had lived as an inmate in New Orleans for several yers before she came to New Orleans, or to Texas, I mean, was stopped by the Court, and the Court would not permit him to ask such questions, and for the purpose of taking a bill of exceptions to the Court's ruling, defendant's counsel proposes to ask the witness Ouida Landry if she was not an inmate of a house of prostitution in New Orleans before she came to Texas in November, 1910, to-wit: The House of Pauline Wilson,

and if she did not there follow the vocation of a prostitute, and the Court refused to permit counsel to ask the question or the witness to answer it, and counsel for the defendant, Effie Hoke, also proposed to ask the witness if she did not live in a house of prostitution run by a woman named Anna before she lived in the house of Pauline Wilson, and if she did not in that house follow the vocation of a prostitute, and the Court would not permit counsel to ask the question or witness to answer it. Counsel for the defendant, Effie Hoke, also proposed to ask the witness if she did not live in a house of prostitution and there became an inmate and follow the business of a prostitute in a place in New Orleans run by May Derby, and the Court refused to permit counsel to ask the question or the witness to answer. And counsel also proposed to ask the witness if she was not a street walker in New Orleans for years, and if she did not frequent the depots and solicit men around the depots for the purpose of prostitution, and the Court refused to permit counsel to ask the question or to permit the witness to answer the same. The defendant expected that witness would answer yes to these questions, or if she did not answer yes, that he would then have laid the predicate to impeach this witness on her credibility and her truth and veracity by showing by other credible witnesses that she lived as an inmate of those various places, and plied the vocation of a street walker and a public woman, all of which the Court refused to permit to go before the jury, the object being to contradict her and to impeach her credibility, and also for the purpose of showing the character of people with whom the witness Florence, Annette and Gertrude Baden associated while in New Orleans and previous to their coming to Texas, because it is admitted in the evidence that in New Orleans and prior to the time they came to Texas at the alleged instance of Effie Hoke that Florence Baden and her sisters and this witness, Ouida Landry, alias Patterson, and other aliases, were friends, associates and companions, and the defendant, Effie Hoke, also offers that testimony for the purpose of contradicting the witness Florence Baden, and Gertrude and Annette for the purpose of showing that they came to Texas of their own free will and accord, the defendant contending, that if it can be shown that these witnesses were public prostitutes for hire in the City of New Orleans, the jury would have the right to infer from that fact that they came here of their own free will and accord, and that no persuasion, coercion or inducement on the part of the defendant, Effie Hoke was used, to all of which the defendant reserves a bill of exceptions.

Mr. Luzenberg: The defendant Economides also excepts.

The Court: The testimony was excluded by the Court because the witness now upon the stand stated in answer to a question propounded to her by the Court that she had, since coming to Beaumont in November, 1910. and up to and including the present time, followed the vocation of a common public prostitute, the Court being of the opinion that the testimony is admisible simply to affect the credibility of the witness, the Court being of opinion that both the requirements of the law and public policy have been met when the witness has answered that she is a public prostitute, the Court being further of the opinion that as to the character of the witnesses named in the bill of indictment, this would be not justification of the defendants action, if the jury should believe that said witnesses were persuaded or induced to make the interstate trip for the purpose of public prostitution.

Mr. Luzenberg: Does the Court hold that we can not ask the witness any questions as to her manner of living before she came to Beaumont?

The Court: 'That is my ruling, that you can not go into specific acts after she has answered as she has.

- Q. You knew Anna Smith in Beaumont?
- A. No sir.
- Q. You never knew little Anna Smith?
- A. Yes sir, I met her. I met her that time at Miss Pauline's.
  - Q. Did you know her in Beaumont?
- A. Yes sir, when I was here I just met her is all. I never had any conversation with her.
  - Q. Do you know her?
  - A. Yes sir, I know her.
  - Q. The girl that lives at Bessie Dean's house?
  - A. Yes sir, I know her when I see her.
  - Q. Were you not in the house with her a while?
- A. No sir, she came to Pauline's one night, that is the only time I ever saw her.
  - Q. Did you know her here in Beaumont?
  - A. No sir, I just know her when I see her.
  - Q. You knew her when you saw her?
  - A. Yes sir.
  - Q. Did you speak to her?
  - A. Yes sir, I spoke to her.
- Q. I will ask you if it is not a fact that you told Anna Smith on Crockett Street next to the Famous Saloon, you know where that is?
  - A. No sir.
- Q. The Famous Saloon on the corner of Crockett and Park Street,—you know where Crockett Street is?
  - A. Yes sir.
- Q. You came down Crockett Street to come to the business part of town?
  - A. Yes sir.
- Q. It is the corner of Crockett and Pearl; do you know where the corner of Crockett and Pearl is?
  - A. Yes sir.
  - Q. I mean Crockett and Park?
  - A. Yes sir.
  - Q. Just two streets west of Pearl Street.

A. Yes sir.

Q. The Famous Saloon is there, spelled Faymous?

A. Yes sir. I know where it is.

On that corner the day you were released from jan; did you go to jail?

A. Yes sir.

Q. Well, on the very day you got out of jail at the corner I have mentioned didn't you meet Anna Smith or pass by her, speaking of Effie and about having been in jail, didn't you say "Effie can't get ahead of us?"

A. No sir, I did not.

Q. And "we will have her arrested" or "we have had her arrested?"

A. No sir.

Q. And "We will get even with her?"

A. No sir, I never said it. All that was said was she met me and said she heard we had got into trouble; that was all that was said.

Mr. Howth: Will the Court permit me to refer back to the bill of exceptions and make it perfectly clear so there will be no misunderstanding upon the part of the Court as to what my bill is directed to? I dislike to irritate the Court about the matter. From the general trend of the Court's remarks in overruling it, I fear the Court is laboring under a misunderstanding as to my purpose. I want to make the bill perfectly clear so there will be no misunderstanding on the part of the The Court in overruling the matter and replying to counsel, made the statement that he would not permit any inquiry as to specific acts or details in reference to her mode of life since she had come to Texas. The question which I wanted to ask the witness and which I proposed to ask her did not relate to specific instances of her life in Texas, or as to her vocation here at all, but it refers back to a prior time, and to the time in New Orleans prior to the time it is alleged that Effie Hoke persuaded the girls to come to Texas.

The Court: You can prove by this or any other witness that the three Hays women mentioned in the bill of indictment were common prostitutes before they came to Texas, if you want to.

Mr. Howth: She would probably deny that. I am trying to prove that fact by the witness by circumstances by showing that she herself lived in a house of assignation prior to coming to Texas.

The Court: That would not be admissible. If you can prove by this witness that the Hays girls were prostitutes before coming to Texas, you can prove that. I don't think you have the right to inquire into specific instances of this witness' life, since she has admitted that she was a prostitute. I will exclude the testimony.

Mr. Howth: I want to prove that she lived in New Orleans prior to the time Effie was charged with this offense, for the purpose of connecting that with proof of the other fact that she and the Hays girls were itnimate friends and were friends of Economides, and prove in that way that the Hays women were prostitutes. The Court must know that we can prove any fact by direct evidence that we can prove by circumstantial evidence.

The Court: That can go into your bill.

Mr. Greer: In view of the Court's remarks, I think there is a misapprehension on the part of the Court. If the Court thinks I want to indulge in anything approaching coarseness, levity or obscenity, I want in justice to myself to remove that impression.

The Court: I acquit counsel of any motive of that kind. I did not intend to intimate anything of that kind as to counsel. The witness says she was a common prostitute and I think the inquiry ought to stop there.

Whereupon, at the close of the foregoing evidence in chief offered by the United States, as shown by the pre-

ceding testimony, the defendants, and each of them, through their counsel, moved the Court to direct a verdict for the defendants, and each of them, submitting the same and the reasons therefor in writing in words and figures following:

1st: Because under the so-called White Slave Act, of June 25, 1910, no offense against the law is charged in that the act does not define the words prostitution, debauchery or other immoral purpose, which constitutes the gravamen of the alleged criminal act, in that the word "prostitution" is broad enough to cover every act of lewdness or sexual dissoluteness on the part of either man or woman, and the word "debauchery" is equally as broad in its significance, whereas the words "or other immoral purpose" are broad enough to embrace any transgression of law, moral, divine, or statutory, and thereby and therein the indictment in this case is insufficient for the Court to predicate its charge to the jury upon or to impart to these defendants notice of any specific act of "prostitution," "debauchery," or "other immoral purpose" they are charged with having the alleged females commit.

2nd: Because the act is unconstitutional, on the grounds set forth in the motion to quash the indictment.

3d: Because the indictments are insufficient to charge any offense as set forth in the demurrers thereto.

4th: Because the title of the act in being named "The White-Slave" act, is misleading and tends to entrap citizens in its terms in this: (1) because prostitution, debauchery, or other immoral purpose within themselves do not constitute any act or fact of slavery; (2) because the act is in its terms broad enough to embrace all women of all races, and thereby tends to influence and probably will influence the jury into believing that it only applies to white women; (3) because sexual vice or immorality, in every instance, is a matter of indi-

vidual volition, and does not, within itself, constitute an act of slavery.

- (5) Because the act not undertaking by either its express or implied terms, to punish a prostitute, or one intending to engage in prostitution, for traveling interstate, it cannot punish one for aiding or assisting another to do that which is not unlawful for such other person to do.
- (6) Because the actual fact of the inter-state journey is not a crime within itself, nor do any of its facts embrace the prohibition against another that would come within any rule of inter-state carriage in aiding or assisting one so traveling inter-state.
- (7) Because the so-called White Slave act does not forbid any woman or girl to travel from one State to another for the purpose engaging in prostitution, or other immoral purpose, at the end of her journey, therefore, under the Constitution of the United States Congress has no power to make a crime of one aiding or assisting or persuading her to take such lawful journey.
- (8) Because it cannot be made a crime for one to assist another to do that which such other has the lawful right to do.

9th: Because the Government failed and omitted to prove that the females, viz: Annette Baden, Florence Baden and Gertrude Baden alias Hays, or either of them were transported over the line of the Texas and New Orleans Railroad Co. as charged in the indictment; and in that the Government failed to prove that the Texas and New Orleans Railroad Co. was a line of railway extending from New Orleans in the State of Louisiana into the State of Texas; and further in that the Court will take judicial knowledge of the fact that the Texas and New Orleans Railroad Co. is chartered as such under the laws of the State of Texas, having its termini wholly

within the State of Texas, to-wit: the city of Houston, Texas, on the west and the city of Orange, Texas, on the East.

10th: Because the evidence introduced by the Government does not show that the defendants or either of them persuaded, induced, coerced, enticed or assisted in aiding, persuading, inducing, enticing or coercing the witness Gertrude Baden alias Gertrude Hays to go and become a passenger in inter-state commerce from the city of New Orleans, La., to Beaumont, Texas, for the purpose of prostitution, or any other purpose (a) because it affirmatively appears from the testimony of Gertrude Baden alias Hays, herself, that she came to Texas because her sisters were coming, and that she was following in the "footsteps" of her sisters, and for these reasons the defendants, and each of them moves the Court to instruct a verdict of not guilty so far as the count in the indictment charging them with persuading or assisting in persuading Gertrude Baden alias Hays to come to Texas for such purpose is concerned.

11th: Because the evidence introduced by the Government, and contained in the foregoing pages does not negative the fact that these witnesses would or might not have taken said inter-state journey for said purposes but for said alleged aid or persuasion, because even if defendants did aid or persuade them, yet if the idea to come originated with said witnesses, or if they come of their own free will, although they might also have been aided, these defendants would not be guilty and the evidence does not show they would not have taken but for such persuasion or aid.

Whereupon in addition to the joint motion to instruct for these defendants and each of them, the defendant Basile Economides presented his written motion individually and separately to instruct a verdict of acquittal of said defendant on the following grounds to-wit: 1st: That the proof does not show that he rendered any actual aid or assistance in the transportation interstate of either of the women or girls named in the indictment.

2nd: Because under the terms of the law the mere persuasion or prevailing upon the women or girls named in the indictment to travel inter-state with the intention on his part that they should at the end of their journey engage in prostitution or debauchery or other immoral purpose, not accompanied by any act of aid or assistance otherwise, constitutes no offense on the part of Economides under the reading and provisions of the act.

3rd: Because it is not shown by the testimony that Economides had any knowledge of the kind of place to which the women or girls named in the indictment were traveling, nor that he had any interest in the place, or the occupation of prostitution in Beaumont.

4th: Because beyond the fact that Effie Hoke and the women or girls named in the indictment met in his wine room or place of business, there was and is no evidence that Economides did any overt act to aid or assist them in their inter-state journey and under the terms of the act under which this indictment was drawn, such facts are insufficient in themselves to amount to an infraction thereof.

And the Court after hearing said motions and the argument of counsel thereon was of the opinion the same were and are not well taken, and it was ordered by the Court that the same be overuled and refused. To which ruling of the Court both of said defendants then and there in open court duly excepted, and now here tender this their bill of exceptions to such ruling and action of the Court and pray that the same be allowed, signed by the Court and filed by the clerk as a part of the record in this cause.

And thereupon, the defendants, to sustain the issue upon their part, then, through their counsel, offered the testimony of the following witnesses as their evidence in chief:

At this stage the defendants' counsel move the Court to instruct a verdict of not guilty. The Court states to counsel that they may put anything in the motion they desire and consider it filed. It is overruled, and defendants except.

## J. E. JONES, A WITNESS FOR THE DEFEND-ANTS, TESTIFIED AS FOLLOWS:

## Questioned by Mr. Howth:

- Q. What is your name?
- A. J. E. Jones.
- Q. Are you in business in Beaumont?
- A. Yes sir, the dry-goods business.
- Q. What kind of goods do you keep?
- A. Ladies' ready-to-wear goods.
- Q. That is dresses for ladies and other clothing?
- A. Yes sir, dresses and underclothes and all things of that kind ready made.
  - Q. Your place is known as The Fashion?
  - A. Yes sir.
  - Q. Is it located on Pearl Street?
  - A. No sir, Crockett Street.
  - Q. Crockett and Pearl?
  - A. No sir, it is between Crockett and Orleans.
  - Q. Was it located there in 1910?
  - A. Yes sir.
  - Q. Were you in that business in November, 1910?
  - A. Yes sir.
  - Q. Do you know Effie Hoke?
  - A. Yes sir.
- Q. Do you know Annette Hays, Florence Hays and Gertrude Hays?

- A. No sir, not by name.
- Q. Do you know them by sight?
- A. No sir, I can't say I do.
- Q. Have you seen the three girls at court since you have been here?
  - A. Yes sir.
  - Q. Did you ever see any of the girls before?
- A. I think they have all been in my store. I know one of them has.
  - Q. Which one of them is that by name?
  - A. I could not tell.

Mr. Howth: Please have the girls brought in so the witness can pick out the one.

(The three Hays girls brought into the court room.)

- Q. Can you see them over there?
- A. Yes sir, I can.
- Q. Now, which one of the girls was it that was in your place?
- A. I could not say positively; I would not be sure. I think this is the one. (Pointing to Gertrude).
  - Q. Can you remember the other two girls?
  - A. No sir, I can not.
- Q. You know it was one of these three girls, but are not sure which one it was?
- A. No sir, but I think it was the little one. In fact I am pretty sure it was.
  - Q. What did she buy there?
  - A. She bought a dress.
  - Q. What was the value of that dress?
  - A. \$22.50.
  - Q. Did she buy anything else?
- A. No sir, I remember an order for some hair goods to be sent there, and I know they kept a hair switch which amounted to \$5.55; I believe the whole bill came to \$28.05.
  - Q. Who did you charge that to?

- A. Effie Hoke. I don't know who bought the hair goods, but the whole bill was charged to Effie.
- Q. The girls came and selected the dress and told you to charge it to Effie?
  - A. Yes sir.
  - Q. Did the girl come there and select the dress?
  - A. Yes sir.
  - Q. Do you know what date that was?
  - A. Yes sir, November 19, 1910.
- Q. Did you sell these other two girls anything at any time?
  - A. I don't remember anything else I sold.
  - Q. The bill amounted to \$28.00?
  - A. Yes sir.
  - Q. Who paid the bill?
  - A. Hazel Hoke.
  - Q. That is Effie's sister?
  - A. Yes sir.

## FLORENCE BADEN (alias Hays) BEING RE-CALLED BY THE DEFENDANTS, TES-TIFIED AS FOLLOWS:

## Questioned by Mr. Howth:

- Q. Do you know a girl named Genevieve Hudson at Bessie Dean's place?
  - A. Yes sir.
  - Q. You were there a while?
  - A. Yes sir.
- Q. You were there about a week ago, at Bessie's place?
  - A. Yes sir.
- Q. I will ask you if about a week ago you did not say in Bessie Dean's house in the presence of Genevieve Hudson, when you were asked why you got into this trouble, and you said you were mad at Effie because she would not give you your clothes, and you said you wished you had not done it?

- A. No sir, I did not.
- Q. And that you had told this story and were going to have to stick to it?
  - A. No sir, I did not.
  - Q. That you would have to stick to the same story?
  - A. No sir, I did not.
- Q. That you wanted to get her into trouble out of revenge?
  - A. No sir.
  - Q. You did not tell Genevieve that?
  - A. No sir, I did not.
- Q. Didn't you tell Bessie Dean here in Beaumont that you made this complaint against Effie because Ouida Landry ribbed you up to do it?
  - A. No sir, I did not.
- Q. And that you did it because of spite against her and because you wanted to get revenge against her for trying to hold your clothes?
  - A. No sir, I did not.
- Q. That you were sorry that you did so, but that now you had told the story to the officers, you would have to stick to it?
  - A. No sir.
  - Q. You didn't make that statement?
  - A. I certainly did not.
- Q. Didn't you make that statement to Bessie Dean in her house in Beaumont just a few days before you went to Paris, Texas, to testify before the grand-jury?
  - A. No sir, I did not.
  - Q. You did not?
  - A. No sir.
  - Q. And that it was all Ouida's fault?
  - A. No sir.
- Q. Didn't you also state that it was all Ouida Landry's fault?
  - A. No sir.
  - Q. Didn't you also tell Bessie Dean that Ouida Lan-

dry ribbed you up to steal your clothes away from Effie's house without paying her the debt that you owed her?

- A. No sir, I did not.
- Q. And that Ouida told you that she never paid the land-lady anything, but always bilked her?
  - A. No sir.
  - Q. You did not say that?
  - A. No sir.
  - Q. You know what the word "bilked" means?
  - A. Yes sir, I certainly do.
- Q. Do you know a place in New Orleans run by a woman named Emma Johnson?
  - A. No sir.
  - Q. Have you ever been to Emma Johnson's place?
  - A. No sir.
- Q. Did you ever tell Billie Seebold at his wine room in New Orleans, or at any other place, just before you came over here that you had been to Emma Johnson's place?
  - A. No sir.
  - Q. Emma Johnson runs a place, does she not?
  - A. I guess she does.
  - Q. You have heard of it?
- A. No sir, I never heard anything about it, and don't know what kind of place it is.
- Q. Now, I will ask you if you did not tell Billie Seebold the last of October or the first of November, at his wine room in New Orleans, that you had been down to Emma Johnson's place?
  - A. No sir, I did not.
  - Q. Do you know Lucile Gray?
  - A. Yes sir.
- Q. Didn't you tell her at Bessie Dean's house about three weeks ago at the breakfast table, or about twelve o'clock,—you have breakfast there about 12 o'clock?
  - A. Yes sir.

- Q. Didn't you tell her that Effie didn't pay your railroad fare to Beaumont?
- A. No sir, the fact is we did not have anything to say about the case in the house.
- Q. And didn't you make that statement in the presence of Anna Smith that morning at breakfast at Bessie Dean's house on about April 3, 1911, that you would not have gotten Efficiento this trouble if it had not been that Ouida Landry persuaded you to do it?
  - A. No sir, I did not.
- Q. That Ouida always bilked the land-lady, and persuaded you girls to try to bilk Effie?
  - A. No sir, I did not.
  - Q. Or a statement substantially to that effect?
  - A. No sir.
- Q. You never made such a statement or a statement to that effect at any time or place or to any person?
  - A. No sir, I certainly did not.

#### ANNETTE BADEN (alias Annette Hays) BEING RE-CALLED BY THE DEFENDANTS TESTIFIED:

#### Questioned by Mr. Howth:

- Q. Have you ever been to Emma Johnson's place in New Orleans?
  - A. No sir.
  - Q. Do you know what kind of place she runs?
  - A. I never heard the name before.
- Q. Didn't you tell Billie Seebold in his wine room about the last of October or the first of November that you all had been down to Emma Johnson's place?
  - A. No sir.
  - Q. You didn't.
  - A. No sir.
- Q. Didn't you tell Bessie Dean that you girls made this complaint against Effic out of revenge because Effie had tried to hold your clothes for a debt?

- A. No sir.
- Q. That you were sorry that you had done so, but that you would now have to stick to the same story you had told and get her into trouble?
  - A. No sir, I never did.
- Q. Didn't you make that statement to Bessie Dean in her house in the City of Beaumont just a few days before you went to Paris to testify before the grandjury!
- A. I never went to Paris. I never was in Daisy or Bessie Dean's house until Sunday night.
  - Q. And that it was all Ouida's fault?
  - A. No sir.
- Q. Did you not in the presence of Anna Smith and Lucile Gray at Bessie Dean's house in the City of Beaumont the day you left her house on Monday, at breakfast about April 3, 1911, along about that time, state that you would not have got Effie into this trouble but for the fact that Ouida ribbed you up and persuaded you to do it?
  - A. I never mentioned this case at all.
- Q. That she persuaded you to leave the house without paying your bill?
  - A. No sir.
- Q. That Ouida Landry always bilked the land-lady and that she persuaded you to bilk Effie?
  - A. No sir.
- Q. And that you were mad because Effie had you arrested for trying to bilk her?
  - A. No sir.
  - Q. You know what "bilk" means?
  - A. Yes sir.
- Q. And that you in turn had had her arrested for revenge?
  - A. No sir.

## BILLIE SEEBOLD, A WITNESS FOR DEFENDANTS, TESTIFIED AS FOLLOWS:

## Questioned by Mr. Luzenberg:

- Q. What is your name?
- A. W. E. Seebold, Jr.
- Q. What is your business?
- A. The restaurant and saloon business at 106 Rampart Street, New Orleans.
  - Q. What is the name of your place?
  - A. The Tanhauser Saloon.
  - Q. That is between what streets?
  - A. Between Canal and Iberville.
  - Q. How far is that from the restricted district?
  - A. One square and a half from it.
  - Q. Do you know a girl named Carrie Bryant?
  - A. Yes sir.
  - Q. Where does she live?
  - A. Almost directly opposite my place of business.
  - Q. What kind of place does she keep?
  - A. A gentlemen's furnished rooming house.
- Q. In July, August and September what kind of place did she run?
  - A. Known as an assignation house.
- Q. Was that inside or outside of the restricted district in New Orleans?
  - A. Outside the restricted district.
- Q. Do you know a young woman named Annette Hays; do you know her by sight?
- A. I know those three sisters; I could not call them by name; I am not familiar with their names.
- Q. One of them is named in the indictment as Annette Baden or Hays, another as Florence Baden or Hays, and the other Gertrude Baden or Hays?
  - A. Yes sir.
  - Q. You know the three girls?
  - A. Yes sir.

- Q. You are positive you can identify them?
- A. Yes sir.
- Q. Where did you first know them?
- A. They came to my place in New Orleans.
- Q. Which one of them?
- A. All three of them.
- Q. Do you remember when that was, Mr. Seebold?
- A. About the middle part of last year.
- Q. In the summer?
- A. Yes sir.
- Q. Do you remember how many times you have seen them in your place?
  - A. Almost daily and nightly.
  - Q. What times of night have you seen them there?
- A. I have seen them there as late as two or three o'clock in the morning.
- Q. Now you have stated that you kept a saloon and restaurant?
  - A. Yes sir.
  - Q. Is there any other name for that kind of place?
- A. They are commonly called wine rooms; my saloon is down stairs and down there is kept the saloon, and up stairs is kept the wine rooms and the restaurant.
  - Q. Is the wine room a large or small room?
- A. Two large rooms with a half dozen or more tables in them.
  - Q. Have you any small rooms?
  - A. Yes sir.
  - Q. Do any one besides women come to your place?
  - A. Yes sir.
  - Q. Do men come to your place?
  - A. Yes sir.
- Q. Do you know what the object was of these three girls in coming to your place?
  - A. They came there to meet men.
  - Q. The same men or different men?

A. Different men at different times. Sometimes of course the same men were there again.

Q. I will ask you if you know what kind of place Carrie Bryant was keeping in New Orleans in the latter part of July and August and September, 1910?

A. Yes sir.

Q. Have you any recollection or do you know where those girls were living in August and September, 1910?

A. I could not recollect the month exactly, but about that time, they were living right opposite my place at Mrs. Bryant's.

Q. How do you know that?

A. Because they came from there to my place of business.

Q. As a rule what kind of people frequent your place?

A. Well, it is just outside of the sporting district and of course there are quite a number of people from the sporting district that pass there.

Q. Prostitutes?

A. Yes sir.

Q. Men and women?

A. Yes sir, of course men come to meet them there.

#### Questioned by Mr. Howth:

Q. I will ask you if it is not a fact that along about the last part of October, 1910, or the first part of November, these three girls, Annette, Florence and Gertrude, told you in your place in New Orleans that they had been to the house of Emma Johnson?

A. They told me-

Q. You can answer that, yes or no?

A. Yes sir.

Q. Now you can go ahead and explain.

Mr. Dailey: I don't understand that to be the rule. They can ask simply the question.

Mr. Howth: We don't care about the details.

- Q. They told you that in your place in New Orleans?
- A. Outside of my place of business.
- Q. Where is Emma Johnson's place?
- A. On Basin Street between Benville and Cordi in the restricted district of New Orleans.
- Q. That is where the City ordinances and laws place the prostitutes?
  - A. Yes sir.
- Q. I will ask you what kind of place Emma Johnson's place is?
  - A. It is a sporting house.
- Q. Is there anything peculiar about that that distinguishes it from other sporting houses?
  - A. It is one of the vilest places in New Orleans.
- Q. I understand you to say it is the vilest one in New Orleans?
  - A. Yes sir, it is.
- Q. I will ask you to state whether there are few or many sporting women in New Orleans, street walkers, and sporting women and prostitutes?
  - A. A great number of them.
  - Q. Is the town overcrowded with them?
  - A. Yes sir, it is.
- Q. I will ask you if you are in position to know, and if in fact you know from hearsay and your own observation and knowledge whether or not it is difficult for that class of women to make expenses in New Orleans?
  - A. Well, it is pretty hard for them.
- Q. I will ask you if it is not a fact that at times that class of women can not make enough to feed themselves?
- A. I know that myself because I feed a good many of them myself.
- Q. I will ask you if that is not especially true in the summer?
  - A. Yes sir.
  - Q. In the late summer and early fall?
  - A. Yes sir.

Q. I will ask you if it is not a fact that the sporting women in New Orleans—

Mr. Dailey objects as leading.

Objection sustained.

## Questioned by Mr. Luzenberg:

- Q. Do you know Miss Effie Hoke, have you seen her?
- A. Yes sir.
- Q. How long have you known her?
- A. It must be about the middle of last year, possibly a little earlier than that.
  - Q. Have you ever seen her in your place of business?
  - A. Yes sir, she has been in there several times.
- Q. This offense is charged to have taken place about the middle of November of last year?
  - A. Yes sir.
- Q. Do you remember whether you saw her in your saloon in November of last year?
  - A. About the time I could not tell definitely.
- Q. Had you seen her during any month previous to that?
  - A. Yes sir.
  - Q. Do you remember what month it was?
  - A. It was in July, I think.
  - Q. You stated that you knew the three girls?
  - A. Yes sir.
- Q. Have you ever at the same time seen the three girls and Effie Hoke in your saloon?
  - A. Yes sir.
  - Q. Now, I said the three girls?
- A. I could not say whether all three of them; some of the girls were there at one time when Effie was there.
  - Q. Do you remember when that was?
  - A. I could not specify definitely.
- Q. Do you remember whether it was in November or the middle of the summer?
  - A. I really could not tell that.

- Q. Now, were they there at different times or at the same time?
  - A. At the same time.

Q. Were they there together?

A. They were congregated together at one time.

Q. They were together?

- A. Yes sir.
- Q. Was there any drinking?

A. Yes sir.

Q. Were they drunk?

A. I could not say; there was some drinking in the party.

Q. How many were in the party, do you know?

A. Five or six.

- Q. Do you remember whether you had seen Effie Hoke and either of the girls more than one time in your place?
  - A. I think that was the only time.
  - Q. Could you tell which one it was?

A. No sir.

Q. You are positive it was one of those girls?

A. Yes sir.

Questioned by Mr. Howth:

Q. Do you know these three girls by sight and by reputation, by what people say about them and by your own knowledge of the three Baden sisters; you have seen them since you have been at court; I want to know whether or not they were generally regarded as prostitutes among the people they run with and by the frequenters of your place and by you?

A. They associated with that class.

Q. Were they regarded by common repute as public prostitutes?

A. Yes sir, naturally.

Q. That was in November, 1910, and for several months or a year prior thereto?

A. I don't think they were there as long as a year.

- Q. Several months prior thereto?
- A. Yes sir.
- Q. They could have been in other parts of the town without your knowing it?
  - A. Yes sir.
  - Q. How big a town is New Orleans?
  - A. Pretty near four hundred thousand people.
  - Q. Did you know Ouida Landry over there!
  - A. Yes sir.
  - Q. . Was she a public prostitute in New Orleans?
  - A. Yes sir, she was.
- Q. Did Ouida Landry and the Hays girls run together and associate together?
  - A. Yes sir.
  - Q. Have you seen them in your wine room together?
  - A. Yes sir.
  - Q. Frequently or infrequently?
  - A. Quite frequently.

#### CROSS EXAMINATION.

### Questioned by Mr. Ownby:

- Q. You run with that kind of people yourself?
- A. My business naturally throws me with them.
- Q. How long have you known Basile Economides?
- A. I have known him 10 or 12 years.
- Q. You are a friend of his?
- A. Yes sir, in a business way.
- Q. How far is your place of business from his?
- A. Pretty near two blocks. His place is Iberville and Burgundy and mine Rampart and Canal.
  - Q. You both keep what is known as wine rooms?
  - A. Yes sir.
- Q. To which you invite men and women to come together?
- A. Yes sir, we keep restaurants and bars, commonly called wine rooms, both of us.

- Q. Men and women come there and drink together?
- A. Yes sir and eat together.
- Q. Do decent people come to your place?
- A. Yes sir, sometimes. Of course we can not say exactly whether they are decent or not when they come into the restricted district.
  - Q. Do decent people come to your place or not?
  - A. Yes sir.
  - Q. Men and women?
  - A. I can not consider women coming there.
  - Q. No decent women come to your place?
  - A. I would not so consider it.
  - Q. Do working girls come there?
  - A. Not that I know of.
- Q. Do you refuse to let any women in your place but prostitutes?
  - A. No sir, I do not.
- Q. You answered my question that sometimes decent women went to the wine rooms in New Orleans?
- A. Well, we have numbers of privately kept women, and they are supposed to be semi-decent in New Orleans.
  - Q. They are supposed to be semi-decent?
  - A. Yes sir.
  - Q. They visit the wine rooms?
  - A. Yes, sir.
- Q. Do any decent women in New Orleans go to wine rooms?
- A. I could not tell you; I can tell you what happens in my place, but as to any other place, I can not tell you.
- Q. Only semi-decent women come to your wine rooms?
  - A. I could not consider it otherwise.
- Q. They come to your place to make assignations with men?
- A. No sir, they don't meet women there, don't meet men.

- Q. They meet men there and eat and drink there, but not to make assignations?
  - A. No sir, I have no rooms.
  - Q. You said these girls came there to meet men?
- A. Yes sir, but they don't come there to make assignations.
- Q. Why is it that decent women do not visit your place?
  - A. It is not considered a respectable district.
  - Q. You are just outside of the restricted district?
  - A. Yes sir. The street there has a pretty bad name.
  - Q. You run this place?
  - A. Yes sir.
  - Q. You are the proprietor?
  - A. Yes sir.
  - Q. Do you know Pauline Wilson?
  - A. Yes sir.
  - Q. Are you a friend of hers?
  - A. No sir.
  - Q. How long have you known her?
  - A. I guess I have known her possibly two years.
  - Q. Is that all?
  - A. Yes sir.
  - Q. You are not a friend of Pauline's?
  - A. No sir.
  - Q. Have you been to her house?
  - A. Once.
- Q. You have only been in Pauline Wilson's place once in your life?
  - A. Yes sir.
  - Q. You have seen Effie Hoke in your house?
  - A. Yes sir.
- Q. Counsel asked you if you had not seen Effie Hoke in company with the three girls in your house, and you said yes, and he asked you if it was two or three or one?
- A. I cannot exactly remember; there are so many assembled there it is hard to remember.

- Q. How many of the three Baden sisters did you ever see in your house with Effie Hoke?
  - A. I could not say positively.
- Q. You are not testifying to something you could not be positive about?
  - A. No, sir.
  - Q. Which one of the girls was in the house?
  - A. I could not tell.
- Q. Would you swear any of them was in the house with Effie Hoke?
  - A. Yes, sir.
  - Q. Which one?
  - A. I can't tell.
  - Q. Was there one, two or three?
  - A. I could not tell whether two or three; two, I think.
  - Q. Didn't you say one in answer to Mr. Howth?
  - A. I cannot tell exactly, because I don't remember.
  - Q. You think there were two?
  - A. Yes, sir.
  - Q. Was it the two oldest, Annette and Florence?
  - A. I could not say.
  - Q. Was Gertrude there?
  - A. I could not tell; I don't know them by name.
  - Q. You don't know them by name?
  - A. No, sir.
- Q. How often have you seen them in your place of business?
- A. They have been there a good many times; I have seen them there several times; I am principally downstairs, looking after my business; I was attending to the bar business.
- Q. You were not attending to your bar business when you saw Effie Hoke, Annette and the other girls in your wine room?
  - A. No, sir.
- Q. Who else was in the crowd; you said there were five or six of them?
  - A. Yes, sir.

Q. What date was that?

A. I don't remember exactly; about the middle of the night.

Q. Car you give the month?

- A. Not definitely. It was about July, I think; in the summer, I don't remember the month or the day exactly.
  - Q. You don't remember the year?
  - A. Yes, sir; last year.
- Q. You swear that you saw two of these girls in company with Effie Hoke in your place of business?
  - A. Yes, sir.
- Q. You say it was in the summer, and that is as near as you can place the time?

A. Yes, sir; and if I am not mistaken Miss Hoke's sister was with her.

- Q. What is her name, do you know?
- A. No, sir; I don't know her name.
- Q. Hazel Hoke?
- A. Yes, sir; I think so.
- Q. She lives at Beaumont?
- A. Yes, sir; I think so.
- Q. You are swearing that two of the Baden girls were there?
  - A. As far as my recollection goes, they were.
  - Q. Effie Hoke was there?
  - A. Yes, sir.
  - Q. Who else!
  - A. Hazel Hoke.
  - Q. Who else!
  - A. The balance I could not say.
  - Q. Why can't you say?
  - A. I can't tell, because I don't remember.
  - Q. How long have you known Effie Hoke?
  - A. I only met her twice.
  - Q. When did you first meet her?
  - A. About June of last year, June or July.

- Q. Was the occasion you speak of the first time you ever met her?
  - A. Yes, sir.
  - Q. Did she come there with the Baden girls?
  - A. No, sir.
- Q. Did they come there separate; who came there first?
- A. I could not say; when I went upstairs they were there together.
  - Q. All around the same table?
- A. No, sir; some on one table and some another, and later they combined together.
  - Q. The two Baden girls and Effie Hoke?
  - A. Yes, sir.
  - Q. Did they drink together?
  - A. They were talking together.
  - Q. Did you understand what they said?
  - A. No, sir.
  - Q. Who introduced you to Effie Hoke?
  - A. Pauline Wilson.
  - Q. Was Pauline there at that time?
  - A. Yes, sir.
  - Q. You are certain of that?
  - A. Yes, sir; positive of it.
- Q. Was there anybody else in this place but these people?
  - A. No, sir; not at that time.
  - Q. This party was together?
  - A. Yes, sir.
- Q. You don't know whether they came in together or
  - A. No, sir.
  - Q. How did they leave?
  - A. I could not tell you that.
  - Q. You don't know whether they left together or not?
  - A. No. sir.
  - Q. That was some time in the summer?
  - A. Yes, sir; the middle of the summer.

- Q. That was the first time you had met Effie Hoke?
- A. Yes, sir.
- Q. When was the next time you met her?
- A. Later in the fall.
- Q. Was she there in November?
- A. I could not remember the month; about that time,

#### I think.

- Q. She was at your wine room?
- A. Yes, sir; she was at my wine room.
- Q. Who with?
- A. Alone.
- Q. She came there by herself?
- A. Yes, sir.
- Q. Do you know what her business was there?
- A. No, sir; I do not.
- Q. She didn't tell you?
- A. No, sir.
- Q. Do you know why she was visiting your wine
  - A. To get a drink and some lunch.
  - Q. Did you ever see her at Economides' wine room!
  - A. No. sir.
- Q. What is that place the girls told you they went to that is the worst place in New Orleans?
  - A. Emma Johnson's.
  - Q. Where did you have this conversation?
  - A. On the outside of my place of business.
  - Q. When was that?
  - A. One morning about 3 o'clock.
  - Q. What month?
  - A. It was July or August.
  - Q. About July or August?
  - A. Yes, sir; I could not recollect the month.
  - Q. Is that as near as you can fix the date?
  - A. Yes, sir.
- Q. What were you doing outside of your place at 3 o'clock in the morning?
  - A. Getting ready to go home.

- Q. Your wine rooms stayed open day and night?
- A. Yes, sir.
- Q. You were getting ready to go home about three o'clock in the morning?
  - A. Yes, sir.
  - Q. Was there anybody with you?
  - A. No, sir; I was alone.
  - Q. Were you leaving the saloon?
- A. Yes, sir; just going out of the door, leaving the saloon.
  - Q. Did you meet the three girls?
  - A. I can't say three; I think two.
  - Q. Didn't you say three of them told you that?
  - A. No, sir.
  - Q. How many were there?
  - A. Two.
- Q. You remember you were going home, and it was 3 o'clock in the morning?
  - A. Yes, sir.
  - Q. How many of the girls were there?
- A. I don't know; there was a party, I don't know how many.
  - Q. There was a party?
  - A. Yes, sir; men and women.
  - Q. How many were in the party?
- A. To the best of my recollection, four: two men and two women.
  - Q. Who were the men?
  - A. I don't know.
  - Q. Did you ever see them before?
  - A. No, sir.
  - Q. Have you ever seen them since?
  - A. No, sir; I have not seen them that I know of.
  - Q. Not that you know of?
  - A. No, sir.
  - Q. Two girls?
  - A. Yes, sir.

Q. Which girls?

A. I cannot recollect just exactly.

Q. You know these girls?

- A. No, sir; not personally; there are so many I deal with it is hard for me to remember them all.
  - Q. You know two of these three sisters?

A. Yes, sir.

Q. They told you they had been to this place?

A. Yes, sir.

Q. Which one of them?

- A. She said: "I have just had a big time down at Emma Johnson's."
  - Q. Which one was that?

A. I can't recollect.

Q. You don't know which one?

A. No, sir.

Q. That was at 3 o'clock in the morning?

A. Yes, sir.

Q. Was it a man or a woman that said that?

A. The men and women both said it.

Q. All four of them?

A. No, sir, not all four; they had a conversation; they were all coming along laughing, and said they had been over there and had a big time.

Q. Did they go into your place of business?

A. No, sir.

Q. They just went by?

A. Yes, sir.

Q. They stopped and gave you this information; did you ask where they had been?

A. No, sir.

Q. You were not personally acquainted with any of the crowd, neither the men nor the women?

A. No, sir, not personally; I knew they had been in my place of business.

Q. You didn't know the men?

A. No. sir.

- Q. You never said anything to them, but as you left your saloon the bunch of four came along and gave you the information that they had been to Emma Johnson's in New Orleans; do you swear that?
  - A. Yes, sir.
  - Q. (Shows cards to witnesses.) Is that your card?
  - A. Yes, sir.
- Mr. Dailey: Have you been displaying that card around Beaumont?

Mr. Howth objects.

Objection withdrawn.

- Q. That is your business card?
- A. Yes, sir.

Mr. Dailey shows card to jury.

- Q. Have you been distributing these cards around Beaumont since you have been here?
- A. Yes, sir; I have handed them to a few of my friends.
- Q. That is the kind of literature you distribute when you visit different cities in Texas?
  - A. I didn't think there was any harm in that.
- Q. You are well acquainted in New Orleans with all the different classes of people?
  - A. Yes, sir.
  - Q. Do you know the working class of people there!
  - A. Yes, sir.
  - Q. Both men and women?
  - A. Yes, sir.
- Q. Girls and men who work in stores and factories and shops?
  - A. Yes, sir.
- Q. I will ask you if it is not a fact that oftentimes that these young people, when the day's work is done, and after the stores and factories are closed, go and get lunch and drink in your place in parties?
  - A. I must say yes.

- Q. You don't hesitate to say it, do you?
- A. No, sir; I tell the truth.
- Q. Numbers of these young people, girls and boys who work in the factories and shops, come to your place?
  - A. Yes, sir.
  - Q. They come in parties there to your place?
  - A. Yes, sir.

#### RE-DIRECT EXAMINATION.

## Questioned by Mr. Luzenberg:

- Q. These working girls that you speak about, are they shop girls or factory girls?
  - A. It would be hard to define them?
- Q. Do you know of any respectable working girl that goes into a wine room and drinks with men in such a place as your place?
  - A. No, sir.
- Q. Do you consider that the working girls who come into your place are respectable, decent girls; some working girls are decent?
  - A. Yes, sir; undoubtedly.
  - Q. The great majority of them?
  - A. Yes, sir.
  - Q. The small minority are not?
  - A. No, sir.
- Q. The kind of working girls that come to your place and meet men there, do they belong to the respectable element?
- A. The class I entertain I should consider not respectable.
  - Q. This card shows about the kind of place you keep?
  - A. Yes sir.
  - Mr. Howth: We offer this card in evidence.
  - Mr. Ownby: It has already been offered.

## BESSIE DEAN, A WITNESS FOR DEFENDANTS, TESTIFIED:

# Questioned by Mr. Howth:

- Q. What is your name?
- A. Bessie Dean.
- Q. Do you know Florence Hays?
- A. Yes, sir.
- Q. I will ask you if she did not say to you about a week ago, in your house, that she made this complaint, or made a complaint against Effie Hoke, because Effie kept her clothes?
  - A. Yes, sir.
- Q. I will ask you if she did not make that statement to you in your house and in your room?
  - A. Yes, sir.
- Q. I will ask you if she did not also say to you that she had told the story against Effie in order to get her into trouble, because she wanted revenge against her for keeping her clothes, or substantially that?
  - A. I don't understand you.
- Q. I will ask you if she did not say that she told the story to get Efficiento trouble, because of her feeling of revenge towards Effice for keeping her clothes out of spite; just answer yes or no.
  - A. Repeat it again.
- Q. Didn't she tell you, in the same conversation, she had told the story against Effie to get her into trouble out of spite because she had kept her clothes?
  - A. Yes, sir.
  - Q. And that she would now have to stick to it?
  - A. Yes, sir.
- Q. Did that conversation occur just after breakfast a few days before she went to Paris?
  - A. Yes, sir.
  - Q. And that it was all Ouida's fault?
  - A. Yes, sir.

- Q. Did she not also tell you in that conversation that Onida said she always bilked the landlady?
  - A. Yes, sir.
- Q. And that Ouida persuaded her to try to bilk Effie out of what she owed her?
  - A. Yes, sir.

#### CROSS-EXAMINATION.

## Questioned by Mr. Ownby:

- Q. You live in Beaumont?
- A. Yes, sir.
- Q. What is your business or occupation?
- A. I have a house down there.
- Q. What kind of house have you?

Mr. Howth: Of course, she can claim the privilege. We admit that she does run that kind of house.

The Court: If she objects on the ground of privilege, I will sustain the objection.

Mr. Ownby: You admit that she runs a house of prostitution?

Mr. Howth: Yes, sir.

The Court: The only way I can rule is if she says she claims the privilege.

- Q. Are you not the madame of a house of prostitution in Beaumont?
  - A. Yes, sir.
  - Q. How long have you lived in Beaumont?
  - A. About three years.
- Q. Florence said she would not have made this complaint if it had not been that Effie would not let her have her clothes; what complaint did she refer to?
  - A. White slave.
- Q. You used the word complaint; what complaint did Florence have reference to; what complaint do you mean?

- A. Had her arrested, I guess.
- Q. Had her arrested?
- A. Yes, sir.
- Q. Do you know whether it is a fact or not that she ever had her arrested, or ever made a complaint against her; don't you know that is not true; or ever had her arrested?
- A. The paper said she had her arrested, and everyone else said so.
  - Q. The papers and everyone?
  - A. Yes, sir.
- Q. She said that Ouida told her to do this to bilk the house?
- A. She said that Ouida told her she was in the habit of bilking the landlady, and she said Ouida told her to do it.
- Q. Do you know of Effie having the girls arrested, charged with being common prostitutes in the town?
- A. No, sir. I might have heard it, but I have forgotten it if I did; I believe I have heard of it.
- Q. You don't know anything about it except from hearsay?
  - A. That is all.
- Q. Did you or not, about the same time and place, tell Ouida and Florence that you were going to swear for Effie Hoke; that the landladies all had to stand in together, and if they did not they would be in a hell of a fix to get girls and keep the house running?
- A. No, sir; I never made such a statement as that to anyone.
  - Q. That is not true?
  - A. No, sir; it is not.
  - Q. You are the keeper of a house of prostitution?
  - Mr. Howth: She has admitted that she is.
- Q. And if you cannot get girls into your house you would have to go out of business, would you not?
  - A. Yes, sir; I would not necessarily.

Q. Could you run a house without girls being in it as working tools and material?

Mr. Howth: That is a matter of argument.

The Court: Yes, sir; I think so.

Q. What do you mean when you say you can run a house of prostitution without women and girls in it?

A. Well, a small house I guess you could.

Q. Can you run a house of prostitution without women in it?

A. They have been run without it; small houses and such as that.

Q. There would be women in it?

A. Well, you could live there yourself.

Q. You could do the whole business for the house; is that what you mean?

A. Not necessarily.

### RE-DIRECT EXAMINATION.

## Questioned by Mr. Howth:

Q. I will ask you if it is not a fact that the landladies are constantly besieged by girls to become inmates of the houses; if you don't have plenty of applicants from girls to become inmates of your house?

A. Yes, sir.

Q. That is true?

A. Yes, sir.

Q. Right here in the city?

A. Yes, sir.

Q. Is it not a fact that they come voluntarily and seek admission to the house, and especially in Carnival time or when anything is going on in the town?

A. Yes, sir.

## GENEVIEVE HUDSON, A WITNESS FOR DE-FENDANTS, TESTIFIED:

## Questioned by Mr. Howth:

- Q. Do you know Florence Hays?
- A. Yes, sir.

Q. I will ask you if Florence didn't say to you, in Bessie Dean's house, that she was sorry she got Effie into this trouble, and did so because she was mad with Effie at the time for trying to hold her clothes, and now that she was into it she was going to stick to the same story she told them in order to get her into trouble?

A. Yes, sir.

#### CROSS-EXAMINATION.

## Questioned by Mr. Ownby:

- Q. When was that?
- A. About a week ago.
- Q. In Bessie Dean's house?
- A. Yes, sir; it was out on the front gallery upstairs.
- Q. Who else was present?
- A. No one but myself.
- Q. You and this girl were out there by yourselves?
- A. Yes, sir.
- Q. How did the conversation happen to come up?
- A. I asked her why she had Effie arrested, and that is how it started.
  - Q. Why she had Effie arrested?
  - A. Yes, sir.
- Q. Do you know whether she had Effie arrested or
  - A. She told me she did.
  - Q. Florence told you she had Effie Hoke arrested?
  - A. She said she and the girls did.
- Q. Are you sure Florence told you she had Effie Hoke arrested?

- A. Yes, sir; she said she wanted to get her clothes out, and that Effie would not give them to her.
  - Q. How did she say they had her arrested?
- A. I think they went to Marvin Scurlock and told Marvin they wanted their clothes, and someone asked them how they came over here.
- Q. I wanted to find out how she said they had Effie arrested?
  - A. She said to get even with her.
- Q. How did she have her arrested; what did she do to have her arrested; did she say she had her arrested?

The Court: I don't think the witness understands you.

- Q. How did she say she had her arrested?
- A. She said the girls had her arrested.
- Q. What girls?
- A. Ouida and Florence and Annette.
- O. Had her arrested where?
- A. Had her arrested here, I guess.
- Q. Had her arrested here?
- A. Yes, sir.
- Q. Up there in the State Court?
- A. She didn't say about that.
- Q. She just told you she was sorry she had her arrested, and would not have had her arrested but she was mad because she tried to get out and take her clothes, and Effie would not let her, and she had her arrested?
  - A. Yes, sir.
  - Q. She told you she had her arrested?
  - A. They had her arrested.
  - Q. Where are you living?
  - A. At Miss Bessie Dean's.
  - Q. She runs a house of prostitution?
  - A. Yes, sir.
  - Q. And you live in that house?
  - A. Yes, sir.
  - Q. What is your business and occupation?

Mr. Howth: Will the Court permit me to tell the witness she don't have to answer that?

The Court to Witness: If you desire to refuse to answer that, you can do so.

The Witness: I don't care to answer it.

- Q. You don't care to answer the question?
- A. No, sir.
- Q. You live in Bessie Dean's house?
- A. Yes, sir.
- Q. That is a house of prostitution?
- A. Yes, sir.
- Q. You don't care to answer what your business or occupation is in that house?
  - A. No, sir.
- Q. Do you have any other business or occupation except in that house?
  - A. No, sir.
- Q. If you have any business or occupation at all, it is such a business or occupation as is pursued in that house?

The Court: I think that is the same question.

### LUCILLE GRAY, A WITNESS FOR THE DEFEND-ANTS, TESTIFIED:

### Questioned by Mr. Howth:

- Q. What is your name?
- A. Lucille Gray.
- Q. Do you know Annette Hays?
- A. Yes, sir.
- Q. I will ask you if Annette did not say in your presence, and in the presence of Anna Smith, at Bessie Dean's house, the day they left Bessie Dean's house, on or about the 3rd day of April and on Monday, April, 1910, that they would not have gotten Effie into this trouble if it had not been for Ouida Landry; that Ouida Landry per-

suaded them to leave the house without paying their bill; that Ouida always bilked the landlady; and when they tried to leave Effie's house Effie had them arrested, and then they had her arrested for revenge?

A. Yes, sir.

Q. I will ask you if you know Florence Baden, or Hays†

A. Yes, sir.

Q. I will ask you if Florence did not tell you, at Bessie Dean's house about three weeks ago, on her front porch, that Effie did not pay her fare to Beaumont?

A. She did.

#### CROSS-EXAMINATION.

## Questioned by Mr. Ownby:

Q. What is your name?

A. Lucille Gray.

Q. Where do you live?

A. Illinois.

Q. Illinois?

A. Yes, sir.

Q. You live in New Orleans?

A. I used to.

Q. I mean now?

A. I live in Beaumont.

Q. How long have you been living in Beaumont?

A. Three years.

Q. At whose house do you live in Beaumont?

A. Miss Bessie Dean's.

Q. What kind of house is that; is that a house of prostitution?

A. Yes, sir.

Q. You say it is a house of prostitution?

A. Yes, sir.

Q. What was it Annette said to you?

A. I asked her if Miss Effie paid her way from New Orleans to Beaumont.

Q. I thought you said that was Florence?

A. Yes, sir, Florence; Annette said at the breakfast table that she did it for spite; that she was in the habit of bilking the landladies.

Q. Are you sure that is all she said?

A. She said she had been in the habit of bilking the landladies, and did it to get even with her for spite.

Q. About what?

A. They said they had a fuss; that Miss Effie bought them some clothes or something, and they didn't want to pay for them, and had Miss Effie arrested.

Q. You say she said she had Miss Effie arrested?

A. Yes, sir; and done it for spite.

Q. You tell the jury that she said they had Miss Effie arrested?

A. Yes, sir.

Q. That is your statement?

A. Yes, sir.

Q. Annette told you that they had Miss Effie Hoke arrested?

A. Yes, sir.

Q. For spite?

A. Yes, sir.

Q. Don't you know they didn't have her arrested at all, either one of them?

A. That is what she said at the table; of course, I don't know.

Q. That is what Annette said?

A. Yes, sir.

Q. What was it Florence told you on the front porch?

A. I asked her if Miss Effie paid her way from New Orleans to Beaumont, and she said she did not.

Q. You are acquainted with Miss Effie Hoke?

A. I don't know her very well.

Q. You know her?

A. Yes, sir.

Q. What was her business in Beaumont?

A. The same as Miss Bessie's.

- Q. She has been proprietress of a house of prostitu-
  - A. Yes, sir.
  - Q. Did you ever visit her house?
  - A. Yes, sir; once in a while.
  - Q. Did you ever board in her house?
  - A. Yes, sir; I lived there a while.
  - Q. How long ago was that?
  - A. About a year and a half ago.
  - Q. How long did you live there?
  - A. About five months.
  - Q. About five months in her house?
  - A. Yes, sir.
- Q. Have you ever talked to Effie Hoke about this case?
  - A. No, sir.
  - Q. She has never mentioned it to you?
  - A. No, sir.
  - Q. Have you talked to her sister, Hazel Hoke?
  - A. No, sir.
  - Q. You have not mentioned it to either of them?
  - A. No, sir.
- Q. Have you met her since this prosecution began against her?
- A. No, sir; I have seen her on the street, but I have not talked to her.
- Q. You never have spoken to her since this case began against her?
  - A. No, sir.
  - Q. Are you sure of that?
  - A. Yes, sir.
  - Q. Have you talked to her sister, Hazel Hoke?
  - A. No sir.
- Q. Now, is it not a fact that you have talked to Effie Hoke, and came here to testify what you have after an understanding between you?
  - A. No, sir.
  - Q. This matter has never been mentioned?

A. No, sir.

Q. If you have never talked to Hazel or Effie, how is it that you are here as a witness, and how did they know that those girls had made this statement to you?

A. I don't know.

Q. You have never told either one of these women about it?

A. No, sir; I have not. I have told some of the girls in the house.

Q. You make the statement to the jury that you never told either of these women about what you say the girls told you, and that they never talked to you about what you would testify?

A. No, sir.

Q. They never have?

A. No, sir.

Q. You don't know how you came to be a witness?

A. Yes, sir; I think I do.

Q. How is that?

A. A lawyer came down there.

Q. Who was the lawyer?

A. Mr. Howth was the lawyer.

Q. He is defending these people?

A. Yes, sir.

Q. He came down there and talked to you?

A. Yes, sir.

Q. You told him about it?

A. Yes, sir; I told him that.

Q. Do you know how he came to see you about it?

A. No, sir; I don't.

Q. You do tell the jury that you never discussed the matter with Effie Hoke?

A. Yes, sir.

Q. She has never spoken to you about it?

A. No, sir.

Q. What is your business or occupation?

Mr. Howth: I wish the Court would instruct the witness about that.

The Court: You can answer that question or not, just as you see fit.

- Q. Do you want to answer the question or not?
- A. No, sir.
- Q. You don't want to answer it?
- A. No, sir.
- Q. You say that Florence told you Effie did not pay her fare from New Orleans?
  - A. Yes, sir.
- Q. Where did she tell you that, and how did she happen to tell you that?
  - A. Out on the front porch one day?
  - Q. What day was that, and when?
  - A. It was on Sunday.
  - Q. How long ago?
  - A. About three weeks ago.
  - Q. About three weeks ago?
  - A. Yes, sir.
- Q. You knew that Miss Effie Hoke had been arrested, did you?
  - A. Yes, sir.
- Q. All the statements the girls made to you was after Effie had been arrested and the prosecution started?
- A. She told me that on the front porch three weeks ago.
- Q. How did she come to tell you that Effie Hoke did not pay her way over here?
  - A. I asked her.
  - Q. Why were you asking her?
  - A. I wanted to know.
  - Q. What business was it of yours?
  - A. None; I happened to ask her.
- Q. She told you that Effie Hoke didn't pay her way over here?
  - A. Yes, sir.
  - Q. Did you tell that to anybody?
  - A. No, sir; except the girls in the house.

- Q. You told that to the girls in the house?
- A. Yes, sir; one of them.
- Q. Which one?
- A. Anna Smith.
- Q. Was she the one you told the other to?
- A. She was at the table when the other was told.
- Q. Did you ever tell Miss Effie Hoke about that?
- A. No, sir; I have never seen Miss Effie except on the street.
- Q. You have not seen her except on the street since then?
  - A. No, sir; I have not.
  - Q. You never did tell Miss Effie about that?
  - A. No, sir; I have never seen her.
  - Q. You don't know how she came to know about it?
  - A. No. sir.
- Q. Did you know whether that would be an important matter for you to come here and testify to that statement?
  - A. I knew it would be the truth.
- Q. Did you know it would be an important matter on the trial?
  - A. Yes, sir.
  - Q. How did you know it?
  - A. I didn't know.
- Q. Do you mean to tell the jury that you knew it would be an important matter to tell the jury what Florence told you; you knew that would be an important matter in this case; how did you know it, and did you know it of your own accord or did someone advise you of it.
  - A. No, sir; they did not.
- Q. How did you know it was important, tell the jury, please; when did you first learn of the importance of that statement you are making in this case?
  - A. I didn't know what to tell them.
- Q. You didn't now what to tell what you are talking about? I don't want to mislead you; I want you to be sure about that. You say that you knew this statement

you are making as to what Florence told you, that Effie Hoke didn't pay her way over here, you knew that was an important statement in this case; when did you first get acquainted with the importance of the matter; who told you of the importance of it; how did you know that it was a very important matter?

A. I guess I didn't know.

Q. Did you know it or not? You said a while ago you knew it was important; what did you mean by that? Isn't it a fact that someone told you about it?

A. No, sir.

Q. Is it not a fact that someone told you that was the very heart of this case; that if she did pay their way over here for the purpose of prostitution, it was a violation of the law, and if she did not it was not?

A. No, sir.

Q. How did you know of its importance, if somebody didn't tell you? Can you answer from what source you got the information that it was important; how you came to learn of its importance; do you know, just tell it; how you first learned of its importance?

A. I don't know; I have not got anything to say about that: I don't know.

Q. You say you cannot tell about that; now, why did you ask Florence that question as to whether Effie Hoke paid her way over here; why did you ask that question, if you didn't know the importance of it, and how did you learn the importance of it?

A. I asked her out on the front porch one day.

Q. Why did you do it?

A. I don't know; I just asked her.

Q. Had you ever heard it discussed that it was a violation of the law to pay a woman's way from one State to another for the purpose of prostitution? Why did you ask that particular question whether or not Effie paid her way over here?

A. I don't know; I just asked her.

Q. How did it happen that you took the most vital point in the case to ask the question about?

A. I just did it because I asked her about it and she told me, and that was all there was to it.

Q. Had you ever talked with anybody about it, or heard it discussed before?

A. No, sir.

Q. You had never heard it discussed or talked about before you asked that important question of Florence Hays?

A. No, sir.

### Questioned by the Court:

Q. Who did she say paid her way over here?

A. She didn't say.

Q. She just said Effie didn't do it, and didn't say who did it?

A. No, sir.

Q. Did she say she paid her own way?

A. No. sir.

Q. Did you ask her if Effie paid her way over here!

A. Yes, sir.

Q. You asked her if Effie paid her way over here, and she said no, and didn't say who paid it?

A. No. sir.

#### RE-DIRECT EXAMINATION.

### Questioned by Mr. Howth:

Q. I will ask you if the arrest of Effie had been discussed, and was a matter of common knowledge in the restricted district; you knew she had been arrested?

A. Yes, sir.

Q. You knew what she was charged with, and that was a matter of common knowledge down there and generally discussed?

A. Yes, sir.

Q. Just tell the jury when I first asked you about that matter; tell when was the first time I ever spoke to you about the matter?

A. Last night.

### ANNA SMITH, A WITNESS FOR THE DEFEND-ANTS, TESTIFIED:

## Questioned by Mr. Howth:

Q. Your name is Anna Smith?

A. Yes, sir.

Q. Did you ever live in any other place except Beaumont?

A. Yes, sir; New Orleans.

Q. Is New Orleans your home?

A. Yes, sir.

Q. You used to live in New Orleans?

A. Yes, sir.

Q. And live in Beaumont now?

A. Yes, sir.

Q. How long have you lived in Beaumont?

A. I have lived here a year, off and on.

Q. Do you know Carrie Bryant's place at 127 North Rampart Street in New Orleans?

A. Yes, sir.

Q. What kind of place is that?

A. An assignation house.

Q. I will ask you to tell the jury if you know what kind of girls visit the wine rooms in New Orleans?

A. Sporting girls.

Q. I will ask you to state to the jury whether there are few or many sporting girls in New Orleans; are there a few sporting girls in New Orleans, or a great many?

A. There are a great many.

Q. Is the city of New Orleans over-crowded with girls of that kind—sporting girls?

A. Yes, sir.

- Q. The supply of girls of that kind is more than the demand for them?
  - A. Yes, sir.
- Q. Do you know what effect that has upon their earning power in plying their vocation; do they make much or little?
- A. I find Beaumont a much better town than New Orleans for girls, because it is cheaper there than New Orleans; I mean the prices are not so good in New Orleans as in Beaumont.
- Q. Is that fact generally known by the girls of that class in that city?
  - A. Yes, sir.
  - Q. Is it generally known?
  - A. Yes, sir.
- Q. I will ask you if you ever lived at Effie Hoke's place?
  - A. I did when I first came to this town.
- Q. I will ask you if she ever bought stuff for you without knowing, without your knowledge and consent, in order to keep you in her house?
  - A. No. sir; she did not.
- Q. I will ask you to state whether or not, when you were an inmate of her house, you turned over to her your earnings?
  - A. No, sir; I did not.
  - Q. What did you do with your earnings?
  - A. I kept them.
  - Q. You paid to her your board out of your earnings?
- A. Yes, sir; I paid my board when it was due and kept my earnings myself.
- Q. She didn't make you turn over all your earnings and pay you what was due you at the end of the month?
  - A. No, sir.
- Q. She didn't keep you in debt by buying things you didn't want and didn't ask for!
  - A. No, sir.

Q. Do you know Annette Hays?

A. Yes, sir; since I have been in Beaumont I know her.

Q. Do you know Ouida Landry?

A. Yes, sir; I knew her in New Orleans.

Q. Was she a sporting girl, or not?

A. Yes, sir; she lived on two streets in a sporting house; one was St. Louis Street.

Q. How far were those places from Economides' place?

A. Four or five blocks; one of them was around the corner from his place.

Q. Do you know how long she was a sporting girl in New Orleans?

A. No, sir; I don't know how long, but I know she was a sporting girl in New Orleans.

Q. Do you know Annette?

A. Only since I have been here in Beaumont.

Q. I will ask you if Annette didn't say in your presence, and in the presence of Lucille Gray, at Bessie Dean's place, on Monday at breakfast, or about that time on April 3rd, that they would not have given Effie any trouble but for Ouida Landry; that Ouida persuaded them to bilk Effie, and that Ouida always bilked the landlady?

A. Yes, sir; she did.

Q. That they tried to bilk Effie, and Effie had them arrested, and then they had Effie arrested for revenge?

A. Yes, sir; she said that, too.

Q. You have already stated that you know Ouida Landry?

A. Yes, sir.

Q. I will ask you if it is not a fact that Ouida Landry, when you met her on Crockett Street in the Faymous Saloon, the day she got out of jail, did not tell you that Effic could not get ahead of them, and that they had had her arrested, or were going to have her arrested, for spite?

A. Yes, sir; she said that.

#### CROSS-EXAMINATION.

## Questioned by Mr. Ownby:

- Q. Where do you live?
- A. I live at Bessie Dean's house.
- Q. You are another one of the girls from Miss Bessie Dean's.
  - A. Yes, sir.
  - Q. Miss Bessie Dean is the landlady of a house?
  - A. Yes, sir.
  - Q. You are one of the girls, and live in the house?
  - A. Yes, sir.
  - Q. What is your business or occupation?
  - A. I am a sporting girl.
  - Q. You are a sporting girl?
  - A. Yes, sir.
  - Q. Do you mean that you are a girl engaged-

Mr. Howth: I think that is sufficient.

The Court: Yes, sir.

- Q. At one time you lived at Effie Hoke's?
- A. Yes, sir; I lived there when I first came to this town.
  - Q. Where did you come from?
  - A. New Orleans.
  - Q. How did you happen to come over here?
- A. Miss Effie and Hazel were in New Orleans for the Carnival, Mardi Gras.
- Q. Miss Effie and Hazel were in New Orleans for the Carnival?
  - A. Yes, sir.
  - Q. She got you to come over here?
- A. No, sir; I came of my own accord, and paid my way and everything.
  - Q. You met her over there?
  - A. I met her at the Carnival Ball.
  - Q. She talked to you about Beaumont?

- A. No, sir; she didn't talk to me about Beaumont; I knew Pauline Wilson, and she told me Beaumont was a good town for a girl.
- Q. Pauline and Effie were acquaintances in New Or-
  - A. Yes, sir.
- Q. When Effie goes to New Orleans she goes to Pauline's house and stops?
  - A. Yes, sir.
  - Q. She was stopping there then?
- A. I don't know; I didn't meet her in Pauline's house.
- Q. You know they are acquaintances, and when Effie goes to New Orleans she stops at Pauline's house?
  - A. Yes, sir; I guess so.
  - Q. Didn't Effie tell you it was a good place for girls?
  - A. No, sir.
  - Q. Did you come back to Beaumont with Effie?
  - A. I came on the same train with her.
  - Q. Any other girls along?
  - A. Yes, sir; a friend of mine.
  - Q. What was her name?
  - A. I think her name was Lillie.

Mr. Howth: I think that is objectionable on two grounds. It was not an offense at that time; it is objectionable on that ground because it was not an offense at that time, and it could not be used against her because it is too remote in point of time, and not a contemporaneous crime that indicates motive, and she is not charged in the indictment with having persuaded the girl to come to Beaumont.

- Q. You are referring to the trip last November from New Orleans to Beaumont?
  - A. I said the Carnival two years ago.
  - Q. You came to New Orleans with her?
- A. I did not come with Effie; I was on the same train with her; she left the same night I did.

The Court: I will exclude that part of it.

- Q. You didn't meet her over there two years ago?
- A. Yes, sir; I did.
- Q. You came back on the same train with her?
- A. Yes, sir.
- Q. And went to her house and lived how long?
- A. I stayed with Effie a couple of months and went back home.
  - Q. Did you come back here again?
  - A. Yes, sir.
  - Q. And then you went to Effie Hoke's?
- A. No, sir; I lived with her once when I came back, and then went to Anna Smith's.
  - Q. What is your name?
  - A. Anna Smith.
  - Q. Is Anna Smith related to you?
  - A. No, sir.
  - Q. You went to another woman's house?
- A. Yes, sir; I lived at several places before I did at Miss Dean's.
  - Q. You have lived at different sporting houses?
  - A. Yes, sir.
- Q. You say that among the prostitutes in New Orleans that Beaumont has the reputation of being one of the most desirable places as a money-making propositions for prostitutes in the country?
  - A. Yes, sir.
- Q. That Beaumont is a favorite spot to which you tried to immigrate when business gets slow anywhere else?
  - A. Yes, sir.
- Q. So you try to get into Beaumont when times are dull in New Orleans?
  - A. Yes, sir.
- Q. Did I understand you to say that prices were higher and men more liberal in Beaumont than in New Orleans?

- A. Yes, sir.
- Q. That is another reason that the business is more profitable here than in New Orleans, the prices were higher?
  - A. Yes, sir.
  - Q. That is true, is it?
  - A. Yes, sir.
  - Q. It is true?
  - A. Yes, sir.
- Q. Is it not a fact that the reason you make that statement is to make an impression on the jury that possibly these girls came to Beaumont—Annette, Florence and Gertrude—of their own volition and were not persuaded, because of the reputation Beaumont had among the sporting girls of being a place where women could reap a rich harvest?
  - A. I did.
  - Q. How is that?
  - A. I did.
- Q. Girls try to come to Beaumont when business is slow in New Orleans, and they come here for that reason?
- . A. Yes, sir.
- Q. I will ask you this question: Did you not make that statement before the jury in order to show or impress on the jury that those girls came over here on their own motion because they thought business was good here, and not because Effie Hoke persuaded and induced them to come?
- A. I would not say that Effie persuaded them to come, and I would not say that they came of their own accord because they thought business was better here, but I will say on my own accord that business is better in Beaumont than in New Orleans.
- Q. You say that New Orleans is such a bad place for prostitution as a business proposition. I will ask you if, as a girl wears out in New Orleans, if she is not considered like an old stock of goods, out of fashion and

style, and when she is not in style she is considered out of the fight?

A. They have so many girls in the Reservation, and they are all cheap girls.

Q. You testified to some statement these girls made to you; which one of the girls made the statement to you about having Effie Hoke arrested?

A. I was present one morning at the breakfast table and she said she was sorry she had Effie arrested, and would not have had her arrested if it had not been for Ouida persuading her to bilk Effie, and she was used to bilking the landladies. Annette said that at the table.

Q. Do you know whether Annette had Effie arrested?

A. I don't know. I met Ouida on Crockett Street one evening as I was coming home.

Q. I am speaking about Annette?

A. I don't know Annette at all, only since I am in this town, and heard her pass this remark.

Q. Do you know whether she had Effie arrested?

A. She said those words.

Q. Are you sure about that?

A. Yes, sir.

Q. When and how?

A. It was at the breakfast table, Monday morning.

Q. How long ago?

A. This Monday morning.

Q. You say that Annette Hays told you she had Effie Hoke arrested?

A. She said she would not have bilked Effie Hoke if she had not-

Q. What do you mean by bilked?

A. I wish you would give me time to explain; I am telling the truth.

Q. What do you mean by the word bilked?

A. It means a great deal with people in the Reservation; that is when they get in debt to the landlady and move out without paying her. Q. Effie told you she had the women arrested for that; I mean Annette?

A. I didn't say Annette said that; I said Ouida said

that.

Q. What was it Annette told you at the breakfast table?

A. She said at the breakfast table that she would not have had anything to do with the case if it had not been for Ouida; that Ouida induced her to bilk the landlady out of the money; that she didn't have anything against Effie Hoke; that she was just bilking her because Ouida ribbed her to bilk her. I did not say that this girl said she had Effie arrested; I said Ouida said it.

Q. Didn't you say in answer to Mr. Howth's question that at the breakfast table you and Lucile were there and that Annette said she would not have had Effie arrested

but-

A. Would not have beat her out of the money if it had not been for Ouida.

Q. She did not say anything about having her arrested at all?

A. No sir, Ouida said that.

Q. Annette never told you she had the woman arrested or had anything to do with having Effic arrested?

A. No sir.

Q. That is your statement now?

A. Yes sir. She made the statement that Ouida was the one that induced her to bilk Effie Hoke.

Q. All you heard Annette say was at the breakfast table when Lucile was there, and that was that Ouida Landry induced her to try to bilk Effie Hoke?

A. That is it.

#### RE-DIRECT EXAMINATION.

## Questioned by Mr. Howth:

Q. Did she not also tell you that she tried to bilk Effie at the instance of Ouida, and after having her ar-

rested they told the story about paying their way over here to get even with her, I mean after she had the girls arrested?

A. Ouida said that.

# OUIDA LANDRY, BEING RECALLED BY THE DEFENDANTS, TESTIFIED:

### Questioned by Mr. Howth:

Q. Is it not a fact that on the day you left Effie Hoke's house you telephoned Effie Hoke from Mr. Baten's office or in that building that if she did not let you girls have your clothes you would have her pulled under the white slave law?

A. No sir.

#### CROSS EXAMINATION.

# Questioned by Mr. Ownby:

- Q. Did you know anything about or had you heard at that time about such a thing as the White Slave Law?
- A. I never heard of it; I didn't know anything about it.
  - Q. At that time did you know anything about it?
  - A. I never heard of it.
- Q. Did you know anything about it until this prosecution was begun and you were summoned as a witness?

A. No sir, I didn't know anything about it.

## THOS. J. BATEN, A WITNESS FOR THE DE-FENDANTS, TESTIFIED:

#### Questioned by Mr. Howth:

- Q. You are a lawyer here in this city?
- A. Yes sir.
- Q. Your office is in the Gilbert Building?
- A. Yes sir.

Q. I will ask you if it is not a fact that the day these three Hays girls and Ouida Landry left Effie Hoke's house if Ouida Landry did not telephone to Effie Hoke in your presence, and say that unless she, Effie Hoke, gave them their clothes that she would have her pulled under the White Slave Law?

A. Yes sir, but not in those exact words, but in substance. I would like to explain a little fuller than your question indicates. She used the term "White Slave business."

#### CROSS EXAMINATION.

Questioned by Mr. Ownby:

Q. That was the day that Effie Hoke had her arrested?

A. I don't know that it was that day; I don't know anything about the arrest; they told me of course; I don't know anything about that, but when they came to my office they were talking about being arrested.

Q. Did they come there to consult you professionally as a lawyer?

A. Yes sir.

Q. And they were talking to you as their lawyer?

A. Yes sir.

Q. In a professional way?

A. Yes sir. They were wanting me to represent them in getting their things.

Q. Did you represent them?

A. Yes sir.

Q. In getting their things?

A. Yes sir.

Q. In this controversy between them and Effie Hoke?

A. Yes sir.

Q. They came there and said that Effie had their clothes and would not give them up?

A. Yes sir. .

- Q. And they came there to consult you as a lawyer, and it was during your employment as their lawyer that you heard this telephone conversation?
  - A. Yes sir, I overheard it.
- Q. You overheard Ouida Landry telephoning to Effie Hoke?
  - A. Yes sir.
- Q. Had you not talked to them about the white slave business?
  - A. No sir, I did not.
  - Q. Didn't you tell them that there was such a law?
- A. No sir, they asked me if Effie could not be pulled under the White Slave Law or something like that.

Mr. Howth: We object to that.

The Court: You having introduced a part of the conversation, the balance can be brought out.

Mr. Howth: I have a right to contradict the witness by showing contrary statements made outside of court to show motive and malice. Now the witness can not be boulstered up. The same rule that permits the witness to be contradicted does not permit the witness to be boulstered up.

The Court: The testimony is admissible as far as it has gone.

- Q. I will ask you if this telephone conversation of Miss Landry with Miss Hoke was not after a conversation you had with these girls and at your suggestion?
- A. They were in consultation with me some time. After they had the telephone conversation the girls talked with me again.
- Q. Was not this telephone conversation at your suggestion?
- A. I don't know whether I suggested to them that they telephone her or not.

Q. Can you say you did not tell them to phone her?

Mr. Howth: We object to that as immaterial. If the malice exists, it don't make any difference whether it originated with them or from outside sources.

Objection overruled.

Defendant excepts.

Q. As I understand it, they were consulting with you as their lawyer to get their clothes from Effie Hoke, and you heard Ouida telephone Effie Hoke that if she did not let them have their clothes, she was liable to be arrested under the White Slave Law; can you say whether that was done at your suggestion or not?

Mr. Howth: It is not material as to whether Ouida Landry originated the idea or not. It is only the contradiction of the witness that is material. We have proved that she did send the message, and it seems to me that ought to be the end of it.

Objection overruled.

Defendant excepts.

The Witness: (Last question having been read to him), I don't know; I don't think I suggested to her to have any such conversation with anyone; I don't think I did because at that time I do not believe I knew what the White Slave Act was, and the suggestion of the White Slave law was first made by Ouida Landry; that is by one of the two or three girls; Ouida seemed to be the spokeswoman.

Q. You can not say whether that telephoning by Ouida Landry was done at your suggestion or not?

A. No sir. I could not say positively.

Q. You say that this woman knew more about the White Slave Law than you as a lawyer did, and in fact as a lawyer you had never heard of it, but this woman had?

- A. Yes sir, I knew in general terms that there was such a thing as the White Slave Law, but I didn't know what it was?
- Q. And this matter you are now testifying to in this case came to you in the confidential relation of client and attorney, did it; is that true that what you are now testifying to now came to you through the confidential relation with your client?
  - A. I never heard of this before.

Mr. Howth: I want to suggest that the communication was to a third person, and therefore does not come within the rule of a privileged communication.

The Court: I will let the witness answer.

Defendants except.

- Q. Is this matter about which you are testifying here now part of a matter that came to your knowledge while you were being consulted by these people as their law-yer?
  - A. Yes sir.
- Q. And during the time of the confidential relation that existed between client and attorney?
  - A. Yes sir.

# Questioned by the Court:

- Q. You say you heard Ouida Landry say over the 'phone to somebody that if she did not let her have her clothes, she would have her prosecuted under the White Slave business?
  - A. Yes sir.

Q. What else did you hear her say over the telephone to the party with whom she was talking?

A. Well, to make it plain so you may understand it, I will have to give the details. The purpose of the girls coming to see me was to get their clothes. I was loth to go into that.

Q. Here is what I want: Tell the jury in addition to the remark you say you heard Ouida Landry make what else did she say over the telephone?

A. She asked her if she could get her clothes, and I presume Effice refused to let her have them until she paid the bill. I could not give the words she used, but the substance of it. She told Effice in substance, the best I remember, that if she did not giver her her clothes,—she threatened her with the White Slave Act, would pull her or some term of that kind, and she spoke as if she knew what the White Slave Act was. I think the words were these, "Do you know what I can do with you under the White Slave Act?" The conversation was broken off very abruptly by the party at the other end hanging up the 'phone.

Q. Was there anything else said by the two parties talking over the 'phone'

A. I don't know whether that was the last said or not.

Q. Was that all that was said over the 'phone by the parties about the White Slave Act?

A. Yes sir, and she said "I will have you pulled under the White Slave Act."

Q. You heard her say "Effie, you know what I can do with you under that law?"

A. Yes sir, something like that.

Mr. Howth: We except to the remarks and the questions by the Court.

# W. E. MARTIN, A WITNESS FOR THE DEFEND-ANTS, TESTIFIED:

# Questioned by Mr. Howth:

Q. You are a police officer in this city?

A. Yes sir.

Q. Do you know the smallest of the three Hays girls, Gertrude by name?

- A. Yes sir, I know the smallest one, I believe; I have seen her.
- Q. I will ask you if she did not tell you or if you did not hear her say in your presence that she came to Beaumont of her own free will, and that she was of age; just answer that yes or no?
  - A. She was not talking directly to me.
  - Q. Did you hear her say that?
  - A. Yes sir.
  - Q. That was in Effie Hoke's house?
  - A. Yes sir.
  - Q. Was Effie present?
  - A. Yes sir.
  - Q. When was that?
- A. I don't know exactly the time. That was some little bit before the carnival I believe.
  - Q. Did Effie Hoke tell her to make that statement?
- A. She didn't tell her anything only to get her clothes and leave.
- Q. Is that the way she came to make that statement, because she told her to get her things and leave?
- A. I suppose so. She said she came of her own free will and was of age.
  - Q. Did she also say she wanted to remain here?
  - A. She said she didn't want to leave.

## CROSS EXAMINATION.

# Questioned by Mr. Ownby:

- Q. How did you come to be at Effie Hoke's house that day?
  - A. She called me in there. Effie Hoke did.
  - Q. What did she want with you?
- A. There were two fellows with the two girls, and she said they had carried the grips out and she was expecting trouble.

Q. Did she call you in or telephone you?

A. She called me in; she said two boys had stolen two of the girls or gotten two of the girls out of the house, and she said they were there trying to get out with the grips and she stopped them or something of the kind; the girls were out at the time.

Q. This little Gertrude was still there?

A. Yes sir. She never called me in there until she got back from the court house; I suppose she had been down to court or somewhere and called me in.

Q. She called you int

A. Yes sir.

Q. The other girls had gone?

A. Yes sir, all gone but the youngest one.

Q. The other girls had gone and the youngest one was there alone in the house with this madam, Effic Hoke?

A. Yes sir. Hazel Hoke and another girl were also there.

Q. She was in the house of prostitution with Effie Hoke and Hazel Hoke who also runs a house of prostitution?

A. Yes sir.

Q. This girl was there alone with them?

A. No sir, there was another girl there with her.

Q. How did she come to tell you that she came of her own accord and that she was 18 or 19 years old?

A. When Effic came back she seemed to be very angry; she called the girl by her name, and said "Go up stairs and get your clothes and leave, these other girls have mistreated me, I want you to leave my place, and the girl cried and said she wanted to stay there; that she was 18 years old and wanted to stay; that she didn't want to go with the other girls.

Q. How did she come to say that she was 18 years of age?

A. There was something said about their age.

Q. Who said anything about the age of the girls?

A. I think the girls had mentioned that at the court house, and there was something said about her not being of age, and she said she was 18. That was when Effice went to have them arrested, and there was something said about having girls in her house under 16 years of age; I don't know much about that. I know that something had been said about the age of the girls or something.

Q. Something had been said in the court house about the age of the girls?

Mr. Luzenberg: I object to that; I don't think that is material. All he can testify to is what was said.

The Court: He can only testify to what was said.

Q. How long was it after Effie Hoke came back to her place down there from the court house was it that you were called in there and this girl made the statement that she was 18 years of age?

A. She told me she wished I would walk down to the house, and when I got there Hazel was there and they were sitting in the room talking, and when Effie came in the conversation started and the girl said she was a grown woman and was 18 years of age.

Q. You don't know what Effie Hoke had said to her on the subject before that?

A. No sir.

Q. You don't know whether she told the girl to say that or not?

A. No sir, I do not.

Q. When Effie told her to get her clothes and leave there, her sisters were not there?

A. No sir.

Q. Did you arrest these girls?

A. No sir.

Q. Which one of officers arrested the girls?

A. I am not right positive now. I think it was Mr. Morgan. They were arrested at night.

Q. Do you know how many times they were ar-

rested?

A. No sir, I know I never did arrest them.

Q. You don't know who filed the complaint against them?

A. No sir, I do not.

Q. At the time you mention the other girls had gone out with their clothes; had they taken their clothes or not?

A. I don't know whether they had or not. Effic said two boys were coming down stairs with the grips and she stopped them, but they had gone out without the grips.

Q. Two boys had come down stairs with the clothes

of the girls in the grips?

A. Yes sir.

Q. She said she wanted you to come there and look after the matter?

A. She said they had come there and interfered with her business, and she told me to stay there; that she expected they would come back. I stopped in there to keep peace. If they had come there and raised a disturbance, I would have put them in jail. Of course if they took the clothes out, I had no jurisdiction of that. If they disturb the peace, of course we can take them.

Mr. Howth: We offer in evidence the warrant of arrest issued for Effie Hoke on the 13th of March, and the officer's return issued out of the United States Court issued in 1911.

BASILE ECONOMIDES, ONE OF THE DEFENDANTS.

Questioned by Mr. Luzenberg:

Q. What is your name?

A. Basile Economides.

- Q. What nationality are you?
- A. Greek, sir.
- Q. Where is your home?
- A. New Orleans.
- Q. How long have you lived in New Orleans?
- A. About thirty years.
- Q. What business were you in at the time of your arrest on this charge?
  - A. The bar room business.
- Q. Had you ever been arrested for anything in your life prior to this charge?
  - A. No sir, never in my life.
  - Q. Where is your business situated?
  - A. Iberville.
- Q. How long have you been in the bar room business?
  - A. About eighteen months.
  - Q. 18 months?
  - A. Yes sir.
  - Q. What was your business before that?
  - A. I was on the police force.
- Q. You were on the police force in New Orleans; did you resign from the force?
  - A. Yes sir.
- Q. Did you know this girl Annette Baden before November of last year?
  - A. Yes sir.
  - Q. Did you know Florence Baden, her sister?
  - A. Yes sir.
  - Q. Did you know Gertrude Baden?
  - A. Yes sir.
  - Q. How long had you known them?
  - A. Five or six months, something like that.
  - Q. Can you remember how long before November?
  - A. Five or six months.
  - Q. Where did you meet them?
  - A. At my place.

- Q. What kind of business do you conduct?
- A. Bar room and restaurant and wine room up stairs.
- Q. The bar room was where?
- A. Down stairs. It was at the corner of Iberville and Rampart.
  - Q. Up stairs was what?
  - A. The wine room.
  - Q. How did you get up stairs to the wine room?
  - A. There was an entrance from the street outside.
- Q. You can go up stairs without going through the
  - A. Yes sir.
  - Q. Now up stairs you have what?
  - A. A wine room.
  - Q. Where is the wine room?
  - A. Up stairs.
  - Q. Where is the restaurant?
  - A. Down stairs.
  - Q. How many wine rooms have you?
  - A. Four and one big dining room.
  - Q. Four little wine rooms?
  - A. Yes sir.
  - Q. How are the wine rooms furnished?
  - A. With tables and easy chairs.
- Q. Now, Mr. Economides, did women come into your wine rooms?
  - A. Yes sir.
  - Q. What kind of women came there?
- A. Not respectable women, common women and streetwalkers.
  - Q. Did any respectable women come into your place?
  - A. No sir.
- Q. Did respectable people come in your place down stairs?
  - A. Yes sir.
  - Q. Women or men?
  - A. Men.

- Q. Do you know how many times these girls had been in your place during the five months you had known them?
  - A. Sometimes twice a day they would come there.

Q. Did they ever come there at night?

A. Yes sir, sometimes at one o'clock and half past one; not later than half past one.

Q. You mean at all hours of the night?

A. Yes sir, different times. They would come not later than that time.

Q. Who were they with when they came, by themselves or with somebody?

A. Sometimes by themselves and sometimes with young men.

Q. Would the three girls come together?

A. Sometimes two sisters, and one time I put the little one out of my house.

Q. Why did you put the little one out?

A. Somebody made some remark about her age. I told the older ones I didn't want the sister in my place, and they asked why and I said she was too young, and she said I was mistaken and that her sister was 18 years old.

Q. Which one of the sisters said she was over age?

A The two older ones.

Q. Prior to November had you known Miss Effie Hoke?

A. Yes sir. I had seen her at my place.

Q. I mean prior to November had you met her?

A. Yes sir, I had seen her in my place.

Q. Where had you seen her?

A. In the wine room up stairs.

Q. Now, do you remember the time about the middle of November that she was in your wine room up stairs?

A. Yes sir.

Q. The time that this charge grows out of?

A. Yes sir.

- Q. You remember that time?
- A. Yes sir.
- Q. Do you remember what time she came there, about what time?
- A. I could not tell exactly, between four and six sometime.
  - Q. Some time between four and six?
  - A. Yes sir.
  - Q. Was she by herself?
  - A. Yes sir, by herself.
- Q. During that afternoon did you see any of the Baden girls there?
  - A. Yes sir, two sisters.
  - Q. Which two?
  - A. The two older ones.
  - Q. Where did you see them?
  - A. Up stairs in the wine room with Miss Effie.
  - Q. You saw them in the wine room up stairs?
  - A. Yes sir, with Miss Effie.
- Q. Is that the first you saw of them, when you saw them up stairs; did you see them when they came in?
- A. No sir, I didn't see them when they came in. I can not say when they came in but the first time I saw them they were up stairs.
- Q. At that time in the evening is that busy time with you?
  - A. Yes sir.
- Q. What part of the business do you attend to, what do you do?
- A. I attend to the bar room and restaurant and the dining room and everything.
  - Q. How many bar counters have you?
- A. One. I have one bar counter and one bar keeper and one porter.
  - Q. Do you serve the bar?
- A. Yes sir, sometimes I do, and sometimes I help in the restaurant; I go all around.

- Q. When you saw the two girls what were they doing?
  - A. Drinking.
- Q. Did you have a conversation with them, or do you remember whether you had a conversation with them or not?
- A. I don't know exactly whether I had a conversation with any of them or not.
- Q. Did you go from room to room or stay in one place?
  - A. No sir, I went from room to room.
- Q. Do you chat with the different people in the different rooms?
- A. Yes sir, sometimes I am in one room and sometimes in another; I have one thing and another to talk about, and I am always trying to please the people.
  - Q. Do you know Miss Wilson?
  - A. Yes sir.
- Q. Was anything said to you at any time by any one of those girls about Miss Wilson, or did you say anything to either of them about going to Miss Wilson's house?
  - A. Yes sir, I told the second one-
  - Q. Which one is that?
- A. I don't know the girls' names; I never asked their names; I don't know their names. I know them by face is all. I know that one is thinner than the other, the second one is the one I was talking to.
  - Q. The second one?
  - A. Yes sir.
- Q. What conversation did you have with her and when?
- A. One night she came out and outside of the wine room and called me out, and said "Economides, I want you to do me a favor," and I said "What favor do you want of me?" Many times they would ask for a dollar or a half dollar, and will give it back.

Q. They ask you many times for a dollar or a half

dollar and they pay it back?

A. Yes sir, they are poor girls and she asked me for \$25.00. I asked her for what, and she said she wanted to leave the town, and I said "No, don't leave the town, if you want to go to a place like that, go to Miss Wilson's house, and I will help you pay board; I can not give you my money to go to another town."

Q. When was that?

A. That was the same evening that Miss Effie Hoke and the girls were in the wine room.

Q. Did you have any reason for not wanting the girl to leave town?

A. They were good customers of mine, and would bring all kinds of drummers into my place, and all kinds of people, and they would bring \$10.00 or \$15.00 in to my place every night.

Q. Did they come there every night or not?

A. Yes sir, they were there every night and sometimes twice a night.

Q. The three girls meant about \$10.00 to you bringing drummers there?

A. Yes sir, about that.

Q. Now, do you remember seeing the little one there that night or not?

A. No sir, I do not.

Q. Do you know whether she was there or not?

A. No sir, I could not say.

Q. She might have been there that night?

A. Yes sir.

Q. Do you remain in the room with them any of the time?

A. Yes sir, I was in there.

Q. Were you in and out of there all the time?

A. I was in and out.

Q. You were talking to other people?

A. Yes sir.

- Q. Do you remember the day of the month that was?
- A. No sir, I do not.
- Q. Is there anything that fixes on your mind the time?
- A. There was a deputy Marshal came in and said "Mr. Economides—
- Q. I do not speak of the time you were arrested; I don't want that; I will ask you how it is that you remember it was in November?
- A. The girl asked me for some money and that makes me think of it.
  - Q. Is that the way you fix it?
  - A. Yes sir.
  - Q. Did you see them when they left?
  - A. No sir.
  - Q. Who paid for the drinks they had in your place?
  - A. Miss Effie.
  - Q. Miss Effie was with the girls?
  - A. Yes sir.
  - Q. Did they pay you or pay the porter?
  - A. The porter.
  - Q. He is the man that waits on the tables?
  - A. Yes sir.
  - Q. Did you see them go out?
  - A. I am not sure; I think so.
- Q. If you are not sure, why are you not sure; if you saw them say so; do you remember whether you saw them when they left?
- A. I could not say exactly; they left at six or seven o'clock.
  - Q. You can not tell?
  - A. No sir.
- Q. Did you at any time tell any of the girls to come to Beaumont?
  - A. No sir, never.
- Q. Did you at any time send for Florence to come to your place and meet Miss Effie Hoke?

- A. No sir, I did not.
- Q. Did you call Annette that evening when she was going by and tell her you wanted her to meet a lady from Beaumont?
  - A. No sir.
  - Q. Did you introduce her to Miss Effie Hoke?
  - A. No sir.
- Q. Did you know anything at that time about any trouble arising out of their meeting there?
  - A. No sir.
- Q. Did you think anything about it until the Marshal arrested you?
  - A. No sir.
- Q. Is that all you remember about it or do you remember any more?
  - A. That is all I remember, sir.
- Q. When was the first time you were ever in Beaumont?
  - A. Last Monday.
  - Q. Have you any interest in Miss Effie Hoke's house?
  - A. No sir.
  - Q. Did you know anything about her house?
  - A. No sir.
  - Q. Or the kind of house she kept?
  - A. No sir.
  - Q. Did you know she was a sporting woman?
  - A. Yes sir.
- Q. If she had been anything else she would not have been in your place?
  - A. No sir.
- Q. Did you tell Annette that if she did not like Beaumont, she would be able—that she could write to you for money to come home and you would send it to her?
  - A. No sir.
  - Q. Did you tell any of the girls that?
  - A. No sir.

- Q. Did you ever receive any letters from any of them?
- A. No sir.
- Q. Do you know anything about the case that I have not asked you?
  - A. No sir, I don't know anything about it.

#### CROSS EXAMINATION.

# Questioned by Mr. Ownby:

- Q. What is your name?
- A. B. Economides.
- Q. Basile Economides?
- A. Yes sir.
- Q. How long have you lived in New Orleans?
- A. About thirty years.
- Q. Of what nationality are you?
- A. I am a Greek.
- Q. Are you a naturalized citizen?
- A. Yes sir.
- Q. Are you educated or an uneducated man?
- A. I speak four or five languages.
- Q. You speak four or five languages?
- A. Yes sir.
- Q. How long were you a policeman in New Orleans?
- A. Fifteen years and three months.
- Q. That was prior to the time you went into the saloon business?
  - A. Yes sir.
- Q. You were well acquainted with the business and social life and conditions in New Orleans, were you?
  - A. Yes sir.
- Q. I will ask you if you were not a special policeman at the theatre for eight years?
  - A. At the French Opera.
  - Q. In the winter time for about eight years?
  - A. Yes sir.

- Q. You are a man of information, are you?
- A. Yes sir.
- Q. You are not an ignorant man, and speak four or five different languages?
  - A. Yes sir.
- Q. Did you ever act as interpreter of languages in court?
  - A. Yes sir.
  - Q. In the United States Court and the State Court?
  - A. I was at the Commissioner's office.
- Q. You are a man, then, of some prominent in New Orleans?
  - A. I think so.
- Q. You had been a policeman for 15 years and a special policeman for eight years at the French Opera, and you spoke four languages and had been an interpreter in some of the courts?
  - A. Yes sir.
- Q. After you quit being a policeman you went into the saloon business?
  - A. Yes sir.
  - Q. At the place you have described?
  - A. Yes sir.
  - Q. How long ago was that?
  - A. About the 24th of November, a year ago.
- Q. Last November a year ago you went into the saloon business?
  - A. Yes sir.
- Q. From the position you occupied you then went into the saloon business?
  - A. Yes sir.
- Q. And that was one inhabited by the prostitutes and social outcasts of the city, is that so?
- A. I don't think it is any disgrace for a man to try to make an honest living.
  - Q. You were making a living by going into the sa-

loon business in a section of the city where only the social outcasts would enter?

Mr. Luzenberg: He has said that respectable men went there.

Q. No decent and respectable woman ever visited that saloon?

A. No sir, I think not.

Q. Did that saloon have that character at the time you took charge of it; was that its business at that time?

A. Usually all the bar rooms have wine rooms up stairs.

Q. You have described the character of saloon you run there; I want to know if it had that character and that no decent woman would enter it, and was only entered by the prostitutes and social scum and outcasts of society at the time you took charge of it?

A. Yes sir.

Q. How long had you known these sisters?

A. Five or six months.

Q. Before November 14?

A. Yes sir.

Q. When did you first get acquainted with Florence Hays and under what circumstances, and where?

A. Up stairs in my wine rooms.

Q. Now, I will ask you, Mr. Economides, if at about the time you say you first got acquainted with her, if she and a friend of hers had not been to the theatre and had come out of the theatre and were walking down the street and you walked up and touched her friend on the shoulder, and said "Why don't you introduce me to your friend?"

A. No sir.

Q. That didn't occur?

A. No sir.

Q. And if her friend did not introduce you and that

you invited them to your house to take a drink in your place of business?

- A. No sir.
- Q. That didn't occur?
- A. No sir.
- Q. Now, I will ask you if later on you did not offer to give her theatre tickets to go to the theatre?
  - A. No sir.
  - Q. Did you ever give her any theatre tickets?
  - A. No sir.
- Q. When did you first meet Annette Hays, the oldest sister
  - A. All four of them came in my place once.
  - Q. Who was the fourth one?
  - A. The three sisters and another girl with them.
  - Q. Who was the other one?
- A. I don't know her name. Those girls know her and if they want to tell the truth, they will tell her name.
  - Q. How did you get acquainted with them?
  - A. I saw them with the crowd up stairs.
- Q. Are you acquainted with the working class of girls in New Orleans; that is, do you know them when you see them; you have been a policeman?
  - A. Yes sir.
- Q. Do you know the class of people that work in shops and factories and offices?
  - A. Yes sir.
- Q. I will ask you if it is not a fact that those girls, many of them from different sections within reach of your place of business after the working hours are over don't come there and get a glass of beer in your saloon?
  - A. No sir, not the respectable girls.
  - Q. Working girls come there?
  - A. No sir.
  - Q. No working girls ever come into your saloon?
  - A. No sir.

- Q. Your saloon absolutely does not draw anything except street-walkers and the lower order of society?
  - A. No respectable ladies come up stairs in my place.
- Q. Do any of the working girls, the girls who toil in shop and factory, come to your saloon?
  - A. May be so, and may be not, I can't tell you.
- Q. How would you know whether a respectable girl went up stairs or not?
  - A. No respectable girl would take the chance.
- Q. Your place was of such a character that you do not think they would take the chance of going in there; that is the statement you make, is it?
  - A. No sir, they would not come there.
- Q. Would not working girls, those who working with their hands and by the sweat of their brows for a living, and not by prostitution, come into your place?
  - A. I don't think they would.
  - Q. You don't think they would?
  - A. No sir.
- Q. You say that at one time the little girl Gertrude was in your place of business, and you remember her being in there?
  - A. Yes sir, many times.
  - Q. You say she was there many times?
  - A. Yes sir.
- Q. You say at one time you made her leave your place!
- A. Yes sir, a policeman come to me and said I ought not to permit her to come, that she was too young, and I made her leave.
  - Q. He told you you should not allow her to be there?
  - A. Yes sir.
- Q. How long had she been coming to your place before the policeman called your attention to the fact that you were permitting that young girl to be in your place?
- A. May be five or six times, not only to my place but all around.

- Q. I speak about your place; she had been in there five or six times, and you did not say anything to her until the policeman told you to stop her from coming there?
- A. The policeman said he did not think she was of age and the best thing would be to find out, and I went up stairs to see the sisters, and they said she was 18 years old, and I came down stairs and reported to the policeman, and he said it was all right.
  - Q. How long ago was that?
  - A. Last summer.
  - Q. You continued to let her come there?
  - A. Yes sir.
- Q. You did not say anything about it until the policeman called your attention to the matter, and then the sister said she was of age?
  - A. Yes sir, the oldest one said she was 24 years old.
- Q. When did you first become acquainted with Effie Hoke?
  - A. I don't remember, last summer.
  - Q. Some time last summer?
  - A. Yes sir.
- Q. Is it not a fact that Effie Hoke went over to New Orleans last summer, about the time of the carnival in New Orleans, and that was the time you met her there; you say it was last summer some time?
  - A. Yes sir.
  - Q. She was over there?
  - A. Yes sir.
  - Q. Is that the first time you met her?
  - A. Yes sir, the time before that I met her.
  - Q. The time before November?
  - A. Yes sir.
  - Q. You never met her before last summer?
  - A. I met her once before that.
  - Q. Once before last summer?
  - A. Yes sir.

Q. When was the first time you met her?

A. I think three months before; I could not tell exactly.

Q. She would visit your place of business, Miss Effie?

A. Yes sir.

Q. You and her were well acquainted?

A. Yes sir.

Q. Do you know Pauline Wilson who lives in New Orleans?

A. Yes sir.

Q. How long have you been acquainted with Pauline?

A. Nine or ten months, something like that.

Q. Only nine or ten months?

A. Yes sir.

Q. I will ask you if it is not a fact that you and Pauline Wilson are quite well acquainted?

A. She buys liquor from me.

Q. Is she not quite well acquainted with you and are you not quite well acquainted with her; I mean in a business and social way?

A. Yes sir, in a business way.

Q. Did you ever visit her house?

A. Yes sir, sometimes I have with strangers.

Q. Sometimes you wanted to have a good time and would go to Pauline's?

A. No sir, customers would come and want to have a nice time, and I would go with them.

Q. When you wanted to have a good time with customers you would go to Pauline's house?

A. Yes sir.

Q. Pauline Wilson and Effie Hoke were acquainted?

A. I don't know sir.

Q. Did you see them together in your place?

A. Yes sir.

Q. Did you see them together at Pauline's house?

A. No sir.

Q. You never saw them together at Pauline's house?

A. No sir, I know Miss Pauline told me Effie was liv-

ing at her house.

- Q. Pauline told you that Effie would stop at her house when she would come to New Orleans, and you saw them in your saloon together?
  - A. Yes sir.
- Q. Did I understand you to say on direct examination that the first time you saw these three girls the evening they started to Beaumont was when they were in the wine room with Effie Hoke?
  - A. Two of them. I didn't see the little one.
- Q. The first time you saw Annette and Florence that evening was when they were up stairs in your wine room in company with Effie Hoke?
  - A. Yes sir.
  - Q. Who else was there?
  - A. No one, I saw Effie Hoke and the two sisters.
  - Q. How did you happen to be there?
- A. I was going in and out every moment, we have all kinds of crowds up stairs sometimes.
- Q. I will ask you if it is not a fact that that evening Annette and Florence, her sister, were passing down the street, and you called to them to come back?
  - A. No sir.
  - Q. That is not true?
  - A. No sir.
- Q. Is it not a fact that Annette Hays did come back at the time I mention now?
  - A. No sir.
  - Q. To the front of your saloon?
  - A. No sir.
- Q. Is it not a fact that you asked her why her sister didn't come back?
  - A. No sir.
- Q. Isn't it a fact that she told you her sister had to go to work at the theatre?

- A. They never worked.
- Q. She never told you that?
- A. No sir.
- Q. Isn't it a fact that you sent a little boy down to the theatre to tell Florence to come up to your saloon?
  - A. No sir.
  - Q. That is not a fact?
  - A. No sir.
- Q. Is it not a fact that Florence came down to your saloon, and you told them Effie Hoke, a lady from Beaumont, was over there and you wanted to introduce them to Effie Hoke?
  - A. No sir.
- Q. Is it not a fact that you told them that Effie Hoke was keeping a private boarding house, and that they could make better wages in Beaumont working in the stores than there?
  - A. No sir.
- Q. Is it not a fact that you telephoned to Pauline Wilson's for Effie Hoke to come down there?
  - A. No sir.
- Q. Is it not a fact that she did come down there and you introduced her to these girls and told her or rather told the girls that there was the lady you had been telling them about, and told Effie Hoke that there was the girls you had been telling her about that she wanted to go with her to Beaumont?
  - A. No sir.
  - Q. That is not true?
  - A. No sir.
- Q. Didn't you and Effie talk with those girls and tell them they were only making four or five dollars a week in New Orleans, and they could make better wages in Beaumont working the stores and millinery stores, and that they could come to Beaumont, and that Effie kept a private boarding house there?
  - A. No sir.

Q. Were you not ordering drinks there; you and Effie both?

A. I didn't order any drinks; that is up stairs and the saloon is down stairs.

Q. Is it not a fact that you and Effie were ordering drinks up in the wine room where the girls were, and they were drinking, with the purpose and intention on your part and on the part of Effie Hoke to get those girls under the influence of liquor so as to make it an easy matter to get them to come to Beaumont?

A. No sir.

Q. Is it not a fact that Florence Baden said she must go back to the show and go to work at the picture show selling tickets, and you said "Come on and have another drink, don't be a piker?"

A. No sir.

Q. Is it not a fact that you told Effie Hoke that those two girls had a younger sister, and she ought to get her and take her along too?

A. No sir.

Q. Is it not a fact that Effie Hoke in your presence gave Florence Baden fifty cents, and told her to go for her little sister?

A. No sir.

Q. Is it not a fact that Florence Hays left there, and in a little while came back with Gertrude, the younger sister, to your place of business?

A. I don't remember that.

Q. Do you remember seeing Gertrude in your place of business that night?

A. I don't remember if I saw her.

Q. If she had been there, you would have known her!

A. No sir, I don't know whether she came there or not, the young one.

Q. Is it not a fact that she came there and you ordered more drinks and got a few drinks down her? A. No sir, I never had any drinks with those girls at all.

Q. Is it not a fact that a taxicab was called and those three girls got into a taxicab at your place?

A. No sir.

Q. And went from there to Pauline Wilson's where Effie Hoke was stopping?

A. No sir.

Q. Is it not a fact that in your presence and at your saloon a taxicab was ordered to take those girls to Pauline's place?

A. I don't know.

Q. How did they leave your place that night?

A. I don't know; fifty would go up stairs and fifty come down.

Q. Did you see them leave?

A. No sir.

Q. Did they go away with Effie Hoke?

A. I can't tell you that.

Q. They were in your wine room up stairs?

A. Yes sir.

Q. In company with Effie Hoke?

A. Yes sir.

Q. Did you have any conversation with Effie Hoke and these girls up stairs?

A. If I did, I don't remember.

Q. Now tell the jury that you can't tell whether you had a conversation with Effie Hoke and these two girls in the wine room that night or not?

A. I don't remember; they may have asked me ques-

tions, I don't remember it.

Q. You don't remember whether you had any conversation or not?

A. I don't remember what kind of conversation I had with them.

Q. Did you have any or not?

A. I was bound to have had some with them.

- Q. You admit that you did have a conversation with them, but can't state what it was?
  - A. No sir.
- Q. Now, you made the statement in your direct examination that Annette Baden, the oldest sister, wanted to borrow \$25.00 from you?
  - A. Yes sir.
  - Q. She said she wanted to leave town, did she?
  - A. Yes sir.
  - Q. You would not loan it to her?
  - A. No sir.
- Q. The reason you would not loan it to her was because she would come into your place and bring people in?
- A. Yes sir, those girls when they would come in there would be worth ten dollars to me.
  - Q. You wanted to use her as a business proposition?
  - A. No sir, the customers.
- Q. Didn't want her to leave town because she was a money making proposition for the saloon?
- A. Well, with people like her customers would come in and spend money in the saloon.
- Q. Now, I will ask you if it is not a fact that on this occasion after you had gotten acquainted with Florence Baden, the second sister, if you did not try to induce her to go and live in Pauline's house, a house of assignation?
  - A. I don't remember if I told her that.
- Q. Now, didn't you say on direct examination that when Annette Baden wanted to borrow the \$25.00, that you told her not to leave, but to go to Pauline Wilson's place and you would see that her board was rold?
  - A. Yes sir, that I would pay her board.
  - Q. You knew that was a house of prostitution?
  - A. Yes sir.
- Q. And you told her to go to that house of prostitution?

- A. Yes sir, and I would see that her board was paid.
- Q. You would stand good for the board with the Madam?
  - A. Yes sir.
- Q. I will ask you if it is not a fact that it was not on this night at all, but on other occasions that you tried to get Annette Baden to go and stay in Pauline Wilson's house, and that you would pay her board, and did not she tell you she could not do it, that her people lived there and they would find it out?
- A. Those girls went to Pauline's house several times; they used to go there, and tell me about it.
  - Q. They went all the time to the assignation houses?
  - A. Yes sir.
- Q. They would go to Pauline Wilson's and would tell you about it?
  - A. Yes, sir.
- Q. You say it is not a fact that she told you she could not go there because her people would find it out?
  - A. No sir.
- Q. After you got acquainted with Florence, the second sister, I will ask you if you did not make the same proposition to her to go to Pauline's house?
  - A. When?
  - Q. Before this time on the 14th of November?
  - A. No sir.
  - Q. At any time?
- A. No sir. I thought you meant the same night, the night she asked for money.
  - Q. You never did make that proposition to Florence?
  - A. No sir.
- Q. You never did tell her that she could be hid up there, and they could not find her?
  - A. No sir.
- Q. I believe you stated on direct examination that the first you knew that there was anything wrong in

sending girls from New Orleans to Beaumont was when this suit came up?

Mr. Luzenberg: The District Attorney is mistaken about that.

Q. I will ask you if you did not state on direct examination that you didn't know there was any such law or anything wrong with getting them to come over here?

A. No sir.

Q. You didn't state that?

A. No sir.

Q. You did not state anything of the kind?

A. No sir.

Q. You knew Effie Hoke was a sporting woman, did not you?

A. Yes sir, certainly.

Q. That she was a madam?

A. I knew that she was a sporting woman; I didn't know whether she kept a house or anything of the kind.

Q. You were a policeman for eighteen years over there and a special policeman for eight years; didn't you know of your own knowledge that it was a fact that these houses are being constantly recruited by the efforts of the madams to get girls into the houses?

A. I didn't know about those three girls.

Q. Having been a policeman for eighteen years and a special policeman for eight years, don't you know it is a fact that there is a constant effort on the part of the madams of the houses to get women in the houses, and to keep the houses recruited with working material?

A. No sir.

Q. You didn't know that?

A. No sir.

Q. Did you know then and do you know now how many women are gotten into those houses, women who go into the houses of prostitution?

Mr. Luzenberg: We object to that. The inquiry should only apply to this case.

Objection sustained.

- Q. Are you a married or single man?
- A. I am a married man.
- Q. You are a man of family?
- A. Yes sir.
- Q. How many members of your family and what sexes?
  - A. I have one boy and two girls.
  - Q. You have one boy and two girls?
  - A. Yes sir.
- Q. How old are your two girls and are they married or single?
  - A. They are single; one is 13 and the other 11 or 12.
  - Q. You are the father of those girls?
  - A. Yes sir.
  - Q. Their mother is living?
  - A. Yes sir.

## RE-DIRECT EXAMINATION.

# Questioned by Mr. Luzenberg:

- Q. Does your family have anything to do with your business?
- A. No sir, my family lives three or four miles from my business.
  - Q. Do they ever come to your bar room?
  - A. No sir, never.

#### RE-CROSS EXAMINATION.

# Questioned by Mr. Ownby:

Q. Did you ever tell either one of those girls that night in your saloon before they started to Beaumont to tell Effie Hoke that they owed you \$6.00 or \$12.00 or \$18.00, owed their land-lady?

- A. No sir.
- Q. You didn't do that?
- A. No sir.

#### RE-DIRECT EXAMINATION.

# Questioned by Mr. Luzenberg:

- Q. Your family are very much distressed over this charge, are they not?
  - A. Yes sir, certainly.
- Q. What was your salary when you were on the police force?
  - A. \$65.00 a month.
- Q. You were asked about that night, remembering having a conversation with the defendant Effie Hoke and these two girls when they were in the wine room; were you going in and out of the wine rooms where the people were?
  - A. Yes sir.
  - Q. Were you down stairs in your bar room too?
  - A. Yes sir.
  - Q. And talking to everybody around there?
  - A. Yes sir.
  - Q. You were around with all of them?
  - A. Yes sir.
- Q. Did you expect that any charge would grow out of those girls being there?
  - A. No sir, I didn't.
- Q. Did you know anything about any charge growing out of it until about a month ago?
  - A. No sir, two weeks ago.
  - Q. It would be about three weeks now?
  - A. Yes sir.
- Q. Did you have any reason to remember anything that took place there?
  - A. No sir, I didn't think I did anything wrong.

- Q. How long did you promise to pay the girls board if she went to Pauline's?
  - A. One or two weeks.
- Q. Would you remember anything about their being there in November except from the fact that this girl wanted to borrow some money from you?

A. Yes sir, she asked for money and that is the only

way I remember it.

- Q. I understood you to say that these girls told you they had been to Pauline Wilson's at different times?
  - A. Yes.
- Q. Do you know whether they had or not or just what they told you?

A. That is all, what they told me.

Q. Did you know anything about these girls coming here with Miss Effie Hoke up to the time you were arrested?

A. No sir.

# MISS EFFIE HOKE, ONE OF THE DEFENDANTS, TESTIFIED AS FOLLOWS:

# Questioned by Mr. Howth:

- Q. What is your name?
- A. Effie Hoke.
- Q. How old a woman are you?
- A. 32 years old.
- Q. Where are you now living?
- A. At San Antonio with my mother.
- Q. How old is your mother?
- A. 76.
- Q. What business do you follow in San Antonio?
- A. I keep a boarding house.
- Q. Ladies or gentlemen?
- A. Gentlemen and ladies also. I keep married ladies living with their husbands.

- Q. You are running a respectable boarding house?
- A. Yes sir.
- Q. How long have you been engaged in that business?
  - A. I went there the 20th of December.
  - Q. Do you do your own work there?
  - A. Yes sir, the most of it.
  - Q. Were you in New Orleans in November, 1910?
  - A. Yes sir.
  - Q. How long did you stay there at that time?
  - A. 10 days.
  - Q. Is that the last trip you ever took to New Orleans?
  - A. Yes sir.
- Q. November, 1910, was the last trip you made to New Orleans?
  - A. Yes sir.
- Q. Tell the jury what you went there for, was it for the purpose of getting girls or for the purpose of recreation and diversion?
- A. I had been in the house here, and went there to rest up and recreation and for a good time.
  - Q. Did you have any friends there?
  - A. Yes sir, I had several friends there.
  - Q. Did you know Pauline Wilson?
  - A. Yes sir, I was visiting Pauline Wilson.
  - Q. Did you know her when she lived in Beaumont?
  - A. Yes sir, I have known her 12 years.
  - Q. Pauline at one time lived in Beaumnot?
  - A. Yes sir.
- Q. Do you know how long Pauline lived in New Orleans at the time you visited her in November, 1910?
  - A. I don't think much over a year at that time.
  - Q. About a year?
  - A. Yes sir.
- Q. At that time were you conducting any kind of business in Beaumont?
  - A. Yes sir.

Q. Tell the jury what it was?

A. I was running a sporting house on Bonham Street in Beaumont.

Q. When you left here did you leave any girls in the house?

A. Yes sir.

Q. How many girls did you leave there?

A. Four girls.

Q. Do you know their names?

A. Yes sir.

Q. Tell the jury their names?

A. One named Ada, another named Lucile, another named Ouida Landry.

Q. She is one of the girls who have testified in this case?

A. Yes sir.

Q. Tell the jury the name of the other girl?

A. Lucile.

Q. You have mentioned Lucile and Ouida and Ada; what was the name of the other girl, if you remember?

A. There was another girl named Cora from Houston.

Q. Had you been in the habit of making trips occasionally?

A. Yes sir, quite often.

Q. During the time you were living in Beaumont running a sporting house was it or not your habit to visit other cities?

A. Yes sir.

Q. Did you ever visit Houston while you were conducting a sporting house?

A. Yes sir.

Q. You would leave some of the girls in charge of your place?

A. Yes sir, and go off for a few days recreation.

Q. Did you ever go to Marlin and San Antonio for rest and recreation?

A. Yes sir.

Q. Does the land-lady of a sporting house have arduous duties to perform, and do they not have to have rest at intervals?

A. Yes sir.

Q. State how many times you had been away before that, and at what intervals and where you went

A. Since I have been in Beaumont I made many a trip away. I have been to New Orleans a half dozen times and to Mobile and St. Louis and up in Illinois and up at Jackson, Tenn., and over to Houston and Galveston several times, and to Marlin three or four times.

Q. Did you ever go to any other place?

A. Yes sir, I have been to lots of country towns; I lived in Batson a while.

Q. Did you know Pauline Wilson at Batson?

A. Yes sir.

Q. Was Pauline running a sporting house then?

A. No sir, she was married and lived with her husband.

Q. You went to San Antonio?

A. Yes sir.

Q. Was your mother living there at that time?

A. Yes sir. She was living there with a married sister.

Q. Does your mother know anything about the trouble you are in in Beaumont?

A. No sir.

Q. You are trying to keep that away from her?

A. Yes sir.

Q. Now, I understand you to say that at the time you went to New Orleans you stayed there ten days for the purpose of recreation?

A. Yes sir.

Q. And to see Pauline?

A. Yes sir.

Q. During the time you were there did you go about the different assignation houses and wine rooms?

A. Yes sir. I went around all the wine rooms and some of the assignation houses, just around drinking.

Q. You were just around drinking?

A. Yes sir.

Q. I will ask you if there is any other place except that kind of place that a sporting woman can go?

A. No sir, if you are known you can not go anywhere except to the wine rooms.

Q. You had Pauline with you?

A. Yes sir, she was known and that was the only place of recreation for us. You could go to the theatres, but I never went to the theatres.

Q. Would they or not have allowed you to stop at the hotels if you were known?

A. No sir, I don't know; I never did try.

Q. Now you have visited these wine rooms with other women?

A. Yes sir.

Q. Did you meet few or many women there?

A. I met a great many, both women and men.

Q. Well, was it the custom or not among the frequenters of wine rooms to get acquainted with each other or were they formal and stiff?

A. Everybody was sociable.

Q. Did you get acquainted with many girls there?

A. Yes sir, lots of girls.

Q. Do you remember the names of the girls you met there?

A. I don't remember many of their names; I met Pauline Wilson's daughter over there, and I met Annette and Florence Baden.

Q. What kind of women frequented those places?

A. Sporting women.

Q. Were those or not the kind of women you met

- A. Yes sir.
- Q. You have stated that you met Annette, Florence and Gertrude?
  - A. No sir, I didn't meet Gertrude.
  - Q. You only met Florence and Annette.
  - A. Yes sir.
  - Q. When was the first time you ever saw Gertrude?
  - A. In Beaumont.
  - Q. When was that?
  - A. When I came home from New Orleans.
  - Q. You had never seen her before?
  - A. No sir.
- Q. When did you first meet Florence and Annette, did you meet them both at the same time or at different times?
- A. I met Florence first last July at Billie Seebold's place. I met her in several different wine rooms; the first time I met her was at Billie Seebold's.
  - Q. Did you meet her before you made this last trip?
  - A. Yes sir, I met her on another trip in July.
  - Q. Before that in July?
  - A. Yes sir.
- Q. How many times were you in New Orleans in 1910?
  - A. I am sure I was there twice in 1910.
  - Q. Your first visit was in July?
  - A. Yes sir.
  - Q. And your second visit in November?
  - A. Yes sir.
- Q. You met Florence the first time in Billie Seebold's wine room in July?
  - A. Yes sir.
  - Q. Did you get acquainted with her?
- A. Yes sir, she wanted to come home with me and I didn't have any room, and I told her I was full up.
  - Q. Did she inquire where you lived?
  - A. Yes sir.

- Q. She knew you were a sporting woman?
- A. Yes sir.
- Q. Where did she know you, she inquired where you lived and whether you were running a sporting house?

Mr. Ownby: We object to the question as leading.

Objection sustained.

- Q. State what Florence said when you first met her and got acquainted with her, whether you had any drinks, and whether you had a conversation, and what the conversation was?
- A. We had several drinks; there were several other girls and boys there, but I knew none of them. She said she wanted to go home with me, and I did not have a room. I told her I had more girls in Beaumont than I needed, and I then went on about my business.
- Q. After you left New Orleans in July did Florence pass out of your mind, or did you keep her in mind?
- A. I never thought about her any more until I met her the last time.
  - Q. That was in November?
  - A. Yes sir.
  - Q. Where did you meet her then?
  - A. In Mr. Economides' place.
  - Q. Did you drink together?
- A. Yes sir, I was sitting there when they came in. I was sitting there, and they came in, her and her sister.
  - Q. Which one of the sisters?
- A. Annette, and she introduced me to Annette, and we had a lot of drinks together.
- Q. Did she renew her former acquaintance; did you recognize her when she came in?
- A. No sir, not until she remined me that we had met before.
  - Q. Did you then remember having seen her before?
- A. I didn't for a while until we got to talking about it.

- Q. After you had talked it over as to where you had met, did you remember having met her?
  - A. Yes sir.
  - Q. Did she recollect where she had met you?
  - A. Yes sir.
  - Q. That was the trip in November?
  - A. Yes sir.
- Q. That was the trip to New Orleans when you remained there ten days?
  - A. Yes sir.
- Q. Now, I will ask you if you met her during that ten days in wine rooms or not?
  - A. Yes sir, I met them often.
  - Q. You met them often after that in the wine rooms?
  - A. Yes sir.
- Q. Did you meet them more than one time at Economides' place?
  - A. Yes sir, and met them at several other places too.
- Q. Did you meet them more than once at Economides' place?
  - A. Yes sir, twice or three times.
  - Q. During the time you were there?
  - A. Yes sir.
  - Q. At different times?
  - A. Yes sir.
- Q. Tell the jury whether these girls or either of them, either Florence or Annette, said anything to you about wanting to come to Beaumont where you lived?
- A. They asked where I lived and of course I explained that to them, and they wanted to come to Beaumont. They wanted me to let them have money to leave New Orleans and said they were not getting along well, and I would not let them have any money; they mentioned it to me two or three times. I told them I had more girls at home than I needed, and that I did not need any girls.

- Q. Was it necessary for you to pay the expenses of girls from New Orleans?
  - A. No sir.
  - Q. Was there y occasion for your doing that?
- A. No sir, there was plenty of girls there that had money of their own.
- Q. Did you have any desire or wish to have these girls come to Beaumont?
  - A. No sir.
- Q. When they expressed a desire to come and said they were not getting along well, did you make any reply to that as to whether you wanted them to come or wished you to come, and for them to see you in the event they did?
  - A. I don't understand you.
- Q. When they said they wanted to come to Beaumont, did you advise them to come?
  - A. No sir, I did not.
  - Q. Did you ask them to come to Beaumont?
  - A. No sir, I did not.
  - Q. Did you suggest to them to come to Beaumont?
  - A. No sir, I did not.
- Q. Did you coerce or force them to come to Beaumont?
  - A. No sir.
  - Q. Did you induce them or persuade them to come?
  - A. No sir.
- Q. Or intimate to them in any way that you wished them to come?
  - A. No sir.
  - Q. Did you in fact wish them to come to Beaumont?
  - A. No sir.
- Q. Now, tell the jury why you didn't let them have any money?
- A. Well, I didn't know the girls and they didn't look like they could do well over here, and there were lots of girls over here.

- Q. How did the girls look at that time?
- A. They didn't look good.
- Q. Did they look attractive or not?
- A. No sir, they did not.
- Q. Did they have any clothes?
- A. No sir, they didn't have good clothes and their shoes were worn out.
- Q. Why didn't you think they would do well in Beaumont?
- A. Well, I didn't think they would make any money here.
  - Q. On account of their appearance at that time?
  - A. Yes sir. That was as much as anything else.
- Q. When did you leave New Orleans, what day of the week was it?
  - A. It was Wednesday night.
  - Q. Did you see the girls at any time before you left?
  - A. No sir.
- Q. How many days was it before you left that you saw them?
- A. Several days before I left. Two or three days before I left.
  - Q. Two or three days before you left?
  - A. Yes sir.
- Q. Do you remember when you saw them before you left?
  - A. No sir, I don't remember.
  - Q. Do you remember where you last saw them?
  - A. No sir, I do not.
- Q. Do you remember whether you were drinking before you left?
  - A. I was drinking at all the wine rooms.
- Q. Were you excessively intoxicated at any time before you left there?
  - A. Yes sir, I was awful full.
  - Q. Do you remember when that was?

- A. Yes sir, I was full for two or three days and don't remember anything.
- Q. Were you intoxicated to such an extent that you had to go to bed and sober up?
  - A. Yes sir.
  - Q. How long did it take you to get off of that drunk?
  - A. Two or three days.
- Q. I understand you to say that the girls Florence and Annette asked you for money?
  - A. Yes sir.
  - Q. And that you declined to let them have it?
  - A. Yes sir.
- Q. You never asked them to come here or advised them to come or persuaded, induced or entited them to come?
  - A. No sir, I did not.
- Q. Now when they came here was that by reason of your persuasion, or did they come of their own voluntary will?
- A. I don't know how they came; when I got here they were here.
- Q. Did they come because of their own free will or because you desired them to come?
  - A. No sir.
  - Q. It was of their own free will?
  - A. Yes sir.
- Q. Did you procure any tickets for these girls to come to Beaumont?
  - A. No sir, I did not.
  - Q. Did you furnish any money for that purpose?
  - A. No sir, I did not.
- Q. Do you remember loaning or giving either of the girls any money?
  - A. No sir.
- Q. Do you remember giving anybody else any money for the purpose of procuring transportation for these girls to Beaumont?

- A. No sir.
- Q. Now, when you got back to Beaumont you found the girls here?
  - A. Yes sir.
  - Q. Was Ouida Landry here then?
  - A. Yes sir, she was.
- Q. How long had she been here previous to your return to Beaumont?
  - A. I don't know exactly, I don't remember that.
  - Q. She was here when you left?
  - A. No sir, she was not.
  - Q. She was not here when you left?
  - A. No sir.
- Q. Do you know when Ouida Landry came to Beaumont?
  - A. No sir.
  - Q. Did you know she was coming to Beaumont?
  - A. No sir, I did not.
- Q. You knew that Ouida was coming to Beaumont, didn't you?
  - A. Yes sir. I knew she was coming to Beaumont.
- Q. She came over here while you were in New Or-
  - A. Yes sir.
  - Q. Did she ever live at your house before that?
- A. She was to live at my house before I left Beaumont.
- Q. Did Ouida come there of her own free will or at your request?
  - A. Of her own free will.
  - Q. Did you furnish her transportation to come on?
  - A. No sir, I did not.
- Q. I will ask you whether it is or not a fact that the girls in large cities and not necessarily in New Orleans, that it is true that they are overworked as sporting girls and don't make much money?
  - A. Yes sir.

- Q. I will ask you to state whether or not it is a fact that the sporting girls and working girls in the larger cities are not desirous of going to other places where they can earn more money?
  - A. Yes sir.
- Q. Does it take any inducement to get them to leave the larger cities and go to other places?
  - A. No sir.
  - Q. Do you have to induce or aid or assist them?
  - A. No sir.
  - Q. When you returned you found these girls here?
  - A. Yes sir.
  - Q. Were they or not without clothing?
- A. The girl that was in charge of the house had bought them some clothes before I came home.
  - Q. She bought them clothes, before you returned?
  - A. Yes sir.
- Q. Did you buy them more clothes after you got back?
  - A. Yes sir.
  - Q. Which ones did you buy clothes for, all?
- A. All of them, underclothes and shoes and stockings, and I bought a hat for Annette, the oldest one.
  - Q. Where did you buy them?
  - A. From Miss Truitt.
  - Q. Did you buy any cheap dresses for them?
  - A. Yes sir.
  - Q. Who did you buy them from?
- A. One from a peddler for Florence and one from Mr. Jones for Annette.
- Q. Did you buy the clothing for them at their request?
  - A. Yes sir. They selected them and I paid for them.
  - Q. Have they ever paid you for those things?
  - A. No sir.
- Q. Did they owe you any money at the time they left your house?

- A. Yes sir.
- Q. How much did they owe you?
- A. I don't know exactly. I knew I would never get it and never kept any account of it.
  - Q. Did they offer to pay you at the time they left?
  - A. No sir.
- Q. I will ask you if they ever undertook to leave there while you were asleep without paying you what they owed you?
- A. They tried to get away and got out a suit case that had a few things in it.
- Q. Did you undertake to interfere with their leaving before they paid you what they owed you?
- A. They were gone before I knew it and a man came for two more suit cases and I didn't let him have them. Two of the girls left.
  - Q. You could not prevent the two girls going?
  - A. No sir.
- Q. When the man came for the two suit cases you interfered with him and asked him not to take them out?
  - A. Yes sir, that is right.
- Q. I will ask you if you remember sending out any complaint against the two girls or complaining to any officers?
- A. An officer sent for me and I went and talked to him about the girls, and he said I had better get rid of them, that they were not the right kind of girls; that was Mr. Giles. He said they were not the right kind of girls to have down there, and they were going to cause me trouble. I went and tried to have them arrested, and they would not arrest them.
  - Q. Do you know whether they were arrested?
- A. They were arrested by the City a couple of times but not through me.
- Q. They were arrested for being in respectable hotels in this town?
  - A. Yes sir.

- Q. Was that before or after they left your place?
- A. After they left my place.
- Q. I will ask you if any one or all of these girls ever made any threats against you as to what they would do to you if you did not allow the balance of their clothing to be taken out?
  - A. Yes sir, they sent several men down there.

Mr. Dailey: We object to that as hearsay.

Objection sustained.

Defendants except.

- Q. Did anybody come to you?
- A. Ouida telephoned me.
- Q. She 'phoned you?
- A. Yes sir.
- Q. What did she say to you over the telephone?
- A. They would put me out of business if I didn't give them their clothes.
- Q. Did she threaten you with prosecution under the White Slave Act?
  - A. I knew nothing about it.
- Q. Did she tell you she would prosecute you under the White Slave Act if you didn't give them their clothes?
  - A. Yes sir.
  - Q. What did you tell her?
- A. I told her I would give them their clothes when they paid me what they owed me.
- Q. Now, where were you arrested under this bill of indictment?
- A. I was sent for to come from San Antonio and arrested in Beaumont; I didn't want my mother to know about it.
  - Q. You didn't want your mother to know about it?
  - A. No sir.
- Q. You spoke of being very drunk a day or so before you left New Orleans?
  - A. Yes sir.

- Q. Where did you start to drinking?
- A. At Pauline Wilson's.
- Q. Did you drink anywhere else?
- A. Yes sir.
- Q. Where?
- A. At Billie Seebold's place.
- Q. Did you drink at Jack Robertson's place?
- A. Yes sir, and I drank at two or three other places.
- Q. Did you leave Economides place and go to Pauline's place during the time you were getting on the big drunk?
  - A. Yes sir.
- Q. Where did you become so intoxicated you had to be put to bed?
  - A. At Pauline's place.
  - Q. Was that the last drunk you were on?
  - A. Yes, sir.
  - Q. You sobered up and returned to Beaumont?
  - A. Yes, sir.
- Q. I understand you to say you don't remember seeing the girls at Pauline's place?
  - A. No, sir; I didn't see them there.
  - Q. You don't remember seeing them there?
  - A. No, sir.
- Q. If you saw them there, it was during the period of your excessive intoxication?
  - A. Yes, sir.

#### CROSS-EXAMINATION.

### Questioned by Mr. Ownby:

- Q. How long have you been in Beaumont?
  - A. Off and on for several years.
  - Q. How long have you lived in Beaumont?
  - A. I have lived here off and on for several years.
  - Q. About how long?
- A. I kept house here four years and a half.

- Q. You know how long you have lived in Beaumont?

  A. Five or six years, I guess; I have been in and out of this town fifteen years since I first turned out.
  - Q. Where else did you live?
  - A. What other cities do you mean?
  - Q. Yes.
  - A. I have lived in quite a number of cities.
  - Q. In Texas, I mean?
- A. I have lived in Houston, and I have lived in Orange and Batson and Sour Lake and Saratoga; I don't believe I have lived in any other towns in Texas; I lived at Tyler, and also Marshall.
  - Q. Are you a married or a single woman?
  - A. I have been married twice.
  - Q. Are you married now or not?
  - A. No, sir; I am a divorced woman now.
- Q. What has been your business or occupation all these years?
- A. Sometimes I was married, living decent; and sometimes I have lived in a sporting house.
- Q. How long have you been the madame of a sporting house?
- A. Just a little over four years; I went into a sporting house four years ago, this coming June will be five years; I went out on the 20th of December last.
- Q. Up to that time you had been engaged in the business of a prostitute, and had been in a house?
  - A. Yes, sir.
  - Q. When did you first become a prostitute?
- A. It has been so long ago I have forgotten; fifteen or sixteen years ago.
- Q. You became the madame of a sporting house four years ago, and previous to that time your business and occupation had been that of a common prostitute?
- A. Yes, sir; most of the time; I have been married twice.

- Q. You began to run this house in Beaumont about four years ago?
  - A. Yes, sir.
  - Q. How long have you known Pauline Wilson?
- A. I have known Pauline twelve or thirteen years; about twelve, anyway.
  - Q. Where did you know her?
- A. I knew her in New Orleans and Beaumont and Batson, and also in Houston.
  - Q. You made frequent trips to New Orleans?
  - A. Yes, sir.
  - Q. What would you go to New Orleans for?
- A. I would just go over there to rest up and just for a good time; I would have a little money and would want to rest up.
  - Q. Where would you stop in New Orleans?
- A. I would stay at different places; the last few times I was there I stopped at Pauline Wilson's.
- Q. You say that the duties of your business as the madame of a house of prostitution became very arduous, and it became necessary for you to take frequent trips for relaxation and the restoration of your health and nervous system; is that true?
  - A. Yes, sir; that is so.
- Q. The last few times you stopped at Pauline Wilson's?
  - A. Yes, sir.
  - Q. Were you acquainted with her daughters?
- A. One of her daughters lived with me the last couple of years.
  - Q. What was her given name?
  - A. Lucille.
  - Q. She lived in your house for two years?
  - A. Yes, sir; she did.
  - Q. Did you see her in New Orleans this last trip?
  - A. She was here.

- Q. Did you see in New Orleans this girl Lucille?
- A. Yes, sir; when I first went over there.
- Q. When you first went to New Orleans you met Lucille?
- A. No, sir; I met her other daughter; she has two daughters.
  - Q I thought you said you met Lucile over there?
  - A. No, sir; she was here in my house at the time.
- Q. You said when you first went to New Orleans she was there, and you met her there; is it not a fact that you sent her over here?
  - A. No, sir.
- Q. You saw her there, and she came over here after you met her on that trip; is not that a fact?

Mr. Howth: We object to that. She is not charged with sending Lucille over here. The evidence shows that Lucille was in Beaumont when this woman went to New Orleans, and it could not be used as an extraneous matter to indicate motive and system because it occurred at another time remote from the date alleged in the indictment.

Objection overruled.

Defendants except.

- Q. Now state if you met her when you went on that trip?
  - A. I met her there lots of times.
  - Q. Did you see her there at that time?
  - A. No, sir; she was not there.
- Q. Now, I want to know about the time when you said you went to New Orleans and met her there?
  - A. She was not there at that time.
  - Q. When you first went over there you met her?
- A. No, sir; she was not there; Pauline has two daughters.
- Q. You met Lucille when you went over there on that trip?

A. No, sir.

Q. You did not?

A. No, sir.

Q. Did you meet Ouida Landry on that trip?

A. No, sir; she was over here.

Q. While you were there?

A. Yes, sir.

Q. Didn't she come over here after you went to New Orleans on that trip; I would like for you to be particular about those statements; didn't you see Ouida Landry when you first went over there on that trip, and while you were still over there, and got her to come here?

A. No, sir; she was in my house at that time, and I

didn't know anything about her.

Q. She didn't come to your house after you went to New Orleans?

A. No. sir.

Q. When you went to New Orleans on the last trip in November, you didn't meet Ouida Landry over there?

A. Yes, sir.

Mr. Howth: Our exception goes to that, also.

Q. You say you didn't need any girls in your house, and that you had it full?

A. No, sir; I had one vacant room when I went to

New Orleans.

Q. What girls did you have there?

A. I had Carrie and Lucille and Ouida and I had a girl named Florence from Marlin.

Q. They were in your house when you went on that

trip to New Orleans?

A. Yes, sir.

Q. Now, isn't it a fact that when you went to New Orleans your house was closed up?

A. No, sir; it was not.

Q. And that there was no one there except a girl named Ada?

A. No, sir.

- Q. Is it not a fact that you met Ouida Landry in New Orleans on that trip when you first went there?
  - A. No, sir.
- Q. And that you also met Lucille, Pauline's daughter; and is it not a fact that you gave the key to Lucille to your house, and that you sent Lucille and Ouida Landry over here to open your house?
  - A. No, sir.
  - Q. And that nobody was in your house at that time?
- A. No, sir; there were people in my house all the time.
- Q. Those girls you name were in your house while you were in New Orleans?
  - A. Yes, sir.
  - Q. Where are those girls now?
- A. Ouida Landry is here, and one of them is in Houston, and one in Galveston, and I don't know where the others are.
  - Q. You know that they are now scattered and gone?
  - A. Yes, sir.
- Q. How long were you in New Orleans prior to the 14th of November?
  - A. I was there ten days.
  - Q. When did you go to New Orleans?
  - A. I don't remember.
  - Q. You got back on the 15th?
- A. No, sir, on the 17th; I got here on the morning of the 17th.
  - Q. How long were you in New Orleans?
  - A. I was there ten days.
  - Q. You got there ten days before the 17th?
  - A. Yes, sir.
- Q. I believe you stated in your direct examination that while in New Orleans you spent most of your time in the wine rooms and saloons and in the houses of prostitution?
  - A. Yes, sir; I certainly did.

- Q. Drinking and having a good time?
- A. Yes, sir.
- Q. And finally you got so drunk you were physically and mentally disabled, and don't know what you did; when did you get so drunk as that; was it early in the game or late in the game?
- A. Late in the game, after I had been there seven or eight days; the last couple of days I was there I was snowed under.
  - Q. You were snowed under?
  - A. Yes, sir.
- Q. You didn't get snowed under earlier than two days before you left?
  - A. Yes, sir; I didn't.
- Q. When did you say was the first time you ever saw Gertrude?
  - A. I never met Gertrude until I came to Beaumont.
  - Q. When was the first time you ever met Florence?
- A. I met her there some time in July, when I was at Billee Seebold's place.
  - Q. You didn't know Annette at that time?
  - A. No, sir; I didn't.
  - Q. When did you first meet Annette?
  - A. When I was over there in November.
  - Q. Where did you meet her?
- A. I met her at all the wine rooms; I first met her at Economides'?
- Q. Everywhere you would go you would meet Annette?
  - A. No, sir; not at every place; at different places.
- Q. Did you see her at any time over there at that vilest house of prostitution in New Orleans?
  - A. No, sir; I didn't go there.
  - Q. You didn't go there?
  - A. No. sir.
- Q. What time in the evening was it that you met Annette in Economides' place?

- A. I met her there several times.
- Q. You got well acquainted with her?
- A. Yes, sir.
- Q. You had met Florence at a good many of those places?
  - A. Yes, sir.
  - Q. You had gotten well acquainted with her?
- A. Yes, sir; I was not so very well acquainted with any of them; they would come in and I would buy them a drink at any time I would see them, and their friends would be along with them.
  - Q. You would associate together?
  - A. Yes, sir.
- Q. When was the last time you saw Annette and Florence at Economides' place; what day was that?
- A. I don't remember the date, but I believe it was Monday.
  - Q. Monday morning?
  - A. No, sir; it was in the afternoon.
  - Q. Monday evening.
- A. Yes, sir; we were all there drinking, and I left them there.
  - Q. Were the two sisters there in his place?
  - A. Yes, sir; in the wine rooms.
  - Q. Who else was there?
- A. A whole bunch, and I don't remember their names, boys and girls; I knew their faces, but I could not state their names.
  - Q. Did you see Mr. Economides there that evening?
- A. Yes, sir; he was in the wine room two or three times; he would come in and have a drink; I always like to drink with the proprietor of the place?
- Q. In reference to the last evening you saw the two girls in there, how long was that before you came back to Beaumont?
  - A. I come back a couple or three days after that.
  - Q. How is that?

A. I came back two or three days after that.

Q. Were you still circulating around in the wine rooms and sporting houses after that?

A. No, sir; I didn't go anywhere; I was sick; I was at Pauline's house.

Q. After the last evening in Economides' place you got sick and didn't go out any more?

A. No, sir; I went to Pauline's place and stayed there.

Q. Did you see Florence and Annette any more after that evening?

A. No, sir; I did not.

Q. The reason was that you got full and stayed at Pauline's house?

A. Yes, sir.

Q. You say that Florence and Annette wanted to come home with you?

A. No, sir; I said that Florence wanted to come home with me last July.

Q. You said the girls wanted to borrow money from you last July?

A. No. sir: Florence.

Q. She wanted to come over here with you then?

A. Yes, sir.

Q. And you didn't want her?

A. No, sir; I had a house full of people; they wanted to borrow money from me the last time I was there. There was plenty of nice-looking girls that wanted to come over here, and had the money to come.

Q. You didn't think they would be a valuable working proposition in your house?

A. No, sir.

Q. And you declined to bring them over?

A. I certainly did.

Q. Were you there present when Annette tried to borrow money from Economides?

A. I don't know anything about that at all.

- Q. What other girls did you have to come over from New Orleans on that trip?
  - A. I didn't have any girls come over at all.
- Q. No other girls came over but those three that went into your house?
- A. No, sir; I didn't know those girls were here until I saw them here.
  - Q. How many rooms did you have in your house?
- A. Only six bedrooms; I had parlors and private rooms.
  - Q. How many different rooms did you have?
  - A. I had twelve rooms in the house.
- Q. Now, where was it you last saw these girls before you left New Orleans?
  - A. At Economides'.
  - Q. You are sure you saw them there last?
  - A. Yes, sir.
- Q. That was two or three days before you came home; how long were you on that drunk that made you mentally disabled and unconscious?
  - A. Ten days.
  - Q. You were drunk that long?
  - A. Yes, sir.
  - Q. Did you stay drunk after you got to Beaumont?
- A. No, sir; I sobered up at Miss Pauline's before I came home.
- Q. You were only in New Orleans ten days and didn't get on this drunk only two days before you came home?
- A. I was there ten days, drinking all the time; I was ten days getting on and off.
  - Q. You were getting on from the time you got there?
  - A. Yes, sir.
  - Q. You were on from the time you got there?
- A. Yes, sir; when I arrived there the first thing I did was to take a drink.
- Q. From the time you arrived you started to get drunk?

- A. Yes, sir.
- Q. What were you drinking?
- A. I drank champagne, beer and other drinks, and anything that anybody drank I drank; I drank more wine than anything else.
- Q. Isn't it a fact that you never did get as drunk as you say; and isn't it a fact that when you say you got on this big drunk you make that statement for the purpose of indicating to the jury that if you did get these girls to come over here you didn't know what you were doing?
  - A. No, sir.
  - Q. That is not true?
  - A. No, sir.
- Q. And that if you could prove that if you were so drunk you didn't know what you were doing, that possibly under the law you would not be held responsible for what you did?
- A. No, sir; such a thing as that never entered my mind at all.
- Q. You say that Ouida Landry was in your house when you went to New Orleans?
  - A. Yes, sir.
- Q. If that was true, why was it, on direct examination, you made the statement that you knew that Miss Landry was coming to your house, and she was to come before you left for New Orleans; how did you come to make that statement if she was already in your house before you went there?
  - A. I knew she was coming, and she did come.
- Q. If she was already there, why did you make that statement that she was to come before you left?
  - A. She was here.
- Q. You did make the two statements, they can't both be true; which is true?
  - A. She was here.
  - Q. If she was here, how did you come to make the

statement that you knew she was going to come before you left New Orleans?

A. I don't understand you.

Q. If she was here, why, on direct examination by your attorney, did you make the statement that you knew before you went to New Orleans that she was coming to your house?

A. I knew she was coming a long time before she

came.

Q. Why did you make the statement that she was here before you left for New Orleans; that you knew she was coming to your house?

A. She was already here when I went to New Or-

leans.

Q. Now, I want to ask you the further question if you did not state on your direct examination that Ouida Landry was not in your house when you went to New Orleans, and I want to know why you made that statement?

A. If I did I made a mistake, because she was here.

Q. If you made the statement that she was not here before you went to New Orleans you made a mistake ?

A. Yes, sir.

Q. You say that all the cities are over-crowded with prostitutes?

A. Yes, sir.

Q. Is it not a fact that the reason you went to New Orleans and took trips away was not because you wanted to relax yourself and rest, but because you wanted to go off and recruit the working material of your house, and that you went to New Orleans for that purpose—to get girls for your house?

A. When I kept house I had lots of letters from girls;

I didn't have to go away to get girls.

Q. You didn't have to go away for girls?

A. No, sir.

Q. Did you ever visit Chicago?

A. No, sir; not for girls.

- Q. Have you ever visited Chicago?
- A. Yes, sir; I was raised sixty miles from Chicago.
- Q. Do you remember whether or not there was a consignment of girls sent a year or two ago from Chicago to a house of prostitution in Beaumont run by a woman named Miss Effie "Blank" or Miss Mabel Belvue, something like that?
  - A. I saw the statement in the papers?

Mr. Howth: We object to that, as irrelevant and immaterial.

Objection sustained.

The Court: I exclude the answer to the question and instruct the jury not to consider it.

- Q. Now, you say that there were plenty of girls over there, and that the market in New Orleans was overcrowded?
  - A. Yes, sir.
- Q. Now, didn't you make that statement to the jury in order to indicate to the jury or impress the jury with the idea that these girls were trying to get out of New Orleans and come to Beaumont, and that you did not have to persuade them or pay their way; is not that the reason you made that statement?
  - A. No, sir.
  - Q. It is not?
  - A. No, sir.
- Q. What girl had charge of the house before you came here?
  - A. Lucille Camp.
  - Q. That is Pauline's daughter?
  - A. Yes, sir.
  - Q. She had the girls' clothes?
  - A. She had charge of my house.
- Q. Isn't it a fact that you sent her over here from New Orleans and put her in charge of the house?

- A. She has been in charge of my house since she was a little girl when I was absent.
- Q. Upon this occasion you put her in charge of the house while you were in New Orleans?
  - A. Yes, sir.
- Q. Now, I will ask you if it is not a fact that you 'phoned from New Orleans on the night of the 14th of November to Miss Lucille, telling her these girls were on the road and to watch out for them and take care of them?
- A. I never 'phoned Lucille Camp while I was in New Orleans.
  - Q. Who did you phone?
  - A. I 'phoned my sweetheart, but not to that effect.
  - Q. It was altogether on another matter?
- A. Yes, sir; it was. I told him that I had not forgotten him and would be home in a few days.
- Q. You were not so intoxicated and dazed in high society in New Orleans but that you would come back?
  - A. No, sir.
  - Q. That is the only 'phone message you sent?
- A. Yes, sir; I asked him to send me some money, that I wanted to come home.
  - Q. When was that you 'phoned to him?
  - A. I don't know what date it was.
  - Q. Was that before you got on this big drunk?
- A. No, sir; it was after I got sober and before I came home.
  - Q. What day did you come home?
  - A. On the morning of the 17th.
  - Q. On the morning of the 17th?
- A. Yes, sir; I am not sure, I got all mixed up while I was drinking and don't remember; I know it was the 17th that I got home.
  - Q. Do you know what day of the week it was?
- A. No, sir; I know I had to pay a few bills when I got home.

- Q. You bought the girls some clothes after you got here?
  - A. Yes, sir.
  - Q. And you bought some clothes from a peddler?
- A. Yes, sir; I bought lots of clothes from different peddlers that come around.
- Q. Is it not a fact that you bought clothes from peddlers and paid \$5.00 for them and then charged the girls \$10.00 for them?
  - A. No, sir; I never done anything of that kind.
  - Q. You didn't charge them more than you paid?
  - A. No, sir; I didn't.
  - Q. How much board did you charge the girls?
  - A. Seventeen dollars the year around.
  - Q. Seventeen dollars a week?
- A. Yes, sir; winter and summer; and they had all the privileges, and electric fans and plenty to eat.
- Q. Did you get on big drunks except when you were drawing that much board?
  - A. Yes, sir; I have been on several in Beaumont, but
- I stayed in my room.

  Q. Is it not a fact, Madam, that you have been drunk the biggest part of your time?
- A. No, sir; I have not been drunk anything to amount to anything for about six months now.
  - Q. Did the last drunk at New Orleans reform you?
  - A. Yes, sir.
- Q. Isn't it a fact that you were drunk here most of the time in your house?
  - A. No, sir.
- Q. Is it not a fact that you were drunk here in your house from the time these girls got here until they went away?
- A. No, sir; most of the time I spent at the Carnival.

  I was there every evening and night.
- Q. How long was it before the Carnival was to come off that you took the trip to New Orleans?

- A. I don't know; ten days or two weeks.
- Q. During the Carnival is a busy time in your business?
- A. Yes, sir; that is the reason I got sober and come home.
- Q. Just about two weeks before what would be the busiest time in your house you went to New Orleans, not for rest and recreation, but for the purpose of getting more working material for your house; is not that the truth?
  - A. No, sir.
  - Q. Have you not been a great drinker all the time?
- A. Yes, sir; when I first turned out and went into the business I drank a great deal.
- Q. Is it not a fact that the girls in your house would turn money in to you, and you would not remember anything about it the next morning?
  - A. I kept a bookkeeper.
- Q. Name the bookkeeper, who was it; name the one who kept the books at this time?
  - A. Claudie.
  - Q. Where is she now?
  - A. I don't know where she is now.
  - Q. She has disappeared off the earth?
- A. Yes, sir; any girl that was in hard circumstances I would let her have charge of the books.
- Q. When you would get drunk, you would turn the business over to Miss Claudie to look after?
  - A. Yes, sir.
  - Q. How do you know that a correct account was kept?
- A. Every morning the girls would come down and want to know what they had turned in.
- Q. You don't know whether the woman you turned the books over to kept them right?
- A. I saw the books every day; of course, I would not know whether they were right or not, but when I made

books at the end of the week with the girls it would come out all right.

Q. During this time you were drinking a great deal

and turned the bookkeeping over to another girl?

A. I did not keep the books myself.

Q. I asked you a while ago who kept the books and you said a girl named Claudie, who has disappeared off the face of the earth; now you claim that these girls were trying to get away without paying you; is that right?

A. Yes, sir; they got away without paying me.

Q. They were trying to get away without paying you, and you had them arrested, didn't you?

A. No, sir; I never had them arrested.

Q. Did you make a complaint against them?

A. No, sir; the officers would not serve any papers on them; I wanted to make a charge.

Q. What were you going to charge them with; what charge did you want to make against them?

A. They were out; out walking on the street with

men and everything else.

Q. Were you going to arrest them for vagrants?

A. Yes, sir.

Q. You were trying to have them arrested for prostitutes when they were following the occupation in your house, and you were the madame running the house?

A. Yes, sir.

Q. You were the mistress of a house of prostitution— Mr. Howth: We object to that. That is not an issue here.

Objection sustained.

Q. Is it not a fact that you did file a complaint against the time I mentioned before the Justice of the Peace?

A. They were never arrested.

Q. Wil you please answer the question: Didn't you swear out a written complaint against these girls, charging them with vagrancy?

A. Yes, sir.

Q. You say they were never arrested?

A. No, sir.

Q. Don't you know they were arrested two or three different times for being here on the streets?

A. No, sir; not from my complaint; they were not arrested.

Q. Not from the complaint you made?

A. No, sir. They got to running around the rooming houses and to the wine rooms, and were arrested by the city; I had nothing to do with that whatever.

Q. You are not running a house of prostitution in

Beaumont now?

A. No, sir.

Q. Why ?

A. Because they had an injunction formed against me and closed me, and I went into another business.

Q. There was an injunction gotton out against you in Judge Hightower's court to make you quit running a house of prostitution?

Mr. Howth objects.

Objection sustained.

Q. Now you have gone into another business?

A. I have reformed and gone home to live with my mother.

Q. You have reformed?

A. Yes, sir.

Q. Gone home to live with your mother?

A. Yes, sir.

Q. Is it not a fact that the reformation has come about by reason of this prosecution?

A. I was going to.

Mr. Howth: There was no prosecution at the time she quit the business.

The Court: You may show that, if you desire.

Q. Is it not a fact that, instead of this being a voluntary reformation instead of a stricken conscience on your

part, is it not a fact that it was an involuntary reformation by force of duress of law and from fear of prosecutions that you thought might be instituted against you, and you went to San Antonio?

A. No, sir; I was engaged to be married, and was to be married on the first of the year, and would have been married to-day but for this trouble.

Q. Somebody living in Beaumont?

A. That is no fair question.

Mr. Howth: You don't have to tell who you were engaged to unless you want to.

The Witness: I don't want to tell; everybody knows

in Beaumont.

The Court: I don't want to embarrass anybody unless it becomes necessary in material testimony.

#### RE-DIRECT EXAMINATION.

## Questioned by Mr. Howth:

Q. Do you know when the houses were put out of business in New Orleans?

A. Yes, sir; I was there.

Q. When was that?

A. A few years back.

Q. Was it not two years ago?

A. Yes, sir.

Q. I will ask you to state whether it is not a fact that a great many sporting girls attended the races and made a living out of the races?

A. Yes, sir.

Q. And out of the strangers that came in there to attend the races?

A. Yes, sir.

Q. And that that put the races out of business?

A. Yes, sir.

Q. And left a great many of them there that made a specialty of the races?

A. Yes, sir.

#### RE-CROSS EXAMINATION.

### Questioned by Mr. Ownby:

Q. How many girls did you say you had in your house while you were in New Orleans?

A. There were four there, and Florence Walker came in the morning I left, and that made five.

Q. Did that include Ouida Landry and Lucille?

A. Yes, sir; and three others came, which made eight.

Q. Theresa was nine?

A. Yes, sir.

Q. How did you manage with only six rooms?

A. Would sleep two in a bed, and we would take turn about taking company.

Q. You had a relief corps?

A. Yes, sir.

#### RE-DIRECT EXAMINATION.

## Questioned by Mr. Howth:

Q. You were engaged to be married and intended to quit the business before you went to New Orleans?

A. Yes, sir.

Q. Was the date of your marriage set?

A. Yes, sir; for the first of the year.

Q. The man you are to marry you, notwithstanding the prosecution, but you have declined to marry him until you get out of this prosecution?

A. Yes, sir.

Q. I understood you to say that you were living with your mother and running a boarding house?

A. Yes, sir.

Q. And that you came to Beaumont and asked the authorities to arrest you here instead of in San Antonio, so your mother would not know about it?

A. Yes, sir. ,

- Q. You are trying to keep this from her?
- A. Yes, sir.
- Q. The price you pay for drinks in the wine rooms in New Orleans, is that higher than you pay at the regular bar?
- A. Yes, sir; they charge pretty high for drinks in the wine rooms.

# ANNETTE BADEN, BEING RE-CALLED BY THE DEFENDANTS, TESTIFIED AS FOLLOWS:

### Questioned by Mr. Howth:

- Q. Do you know Mr. Frank Townsend, the Constable?
- A. Yes, sir.
- Q. Do you know Shep VanWormer?
- A. No, sir.
- Q. Is it not a fact you told Mr. Townsend down at the Court House that you didn't want Effie to hold your clothes; that you wanted to go back to New Orleans?
  - A. Yes, sir.
- Q. I will ask you if it is not a fact that he told you that if you would meet him at the Court House the next morning he would arrange for the money for you to go back to New Orleans?
  - A. No, sir.
- Q. And that you failed to show up to receive the money to go back to New Orleans with?
  - A. No, sir.

### FRANK TOWNSEND, A WITNESS FOR THE DE-FENDANTS, TESTIFIED:

### Questioned by Mr. Howth:

- Q. Do you know Annette Baden, or Hays?
- A. Yes, sir.
- Q. The tall blonde girl?
- A. Yes, sir.
- Q. Of the three sisters?
- A. Yes, sir.

- Q. I will ask you if it is not a fact that at the time they were complaining about Effie Hoke holding her clothes she did not say she wanted to go back to New Orleans?
  - A. Yes; she did.
- Q. And didn't you state to her that you would get her the money to go back to New Orleans, and to meet you at the Court House the next morning?
  - A. Yes, sir.
- Q. Did she show up at the Court house the next morning, or at any time?
  - A. Yes, sir.
  - Q. You were Constable at that time?
  - A. Yes, sir.

#### CROSS-EXAMINATION.

### Questioned by Mr. Ownby:

- Q. Do you know how many arrests there were of these girls?
  - A. Either two or three; I forget which.
- Q. Is it not a fact that about every time these girls would appear on the street, or anywhere else, they would be arrested?
  - Mr. Howth: We object to that.
  - Q. Then you say they were arrested three times?
- A. No, sir; the three girls were arrested; there was a complaint filed in our court one time.
- Q. Don't you know they were arrested before or after that?
  - A. No, sir; I don't know.

# SHEP VAN WORMER TESTIFIED FOR THE DEFENDANTS:

### Questioned by Mr. Howth:

- Q. Were you present when Mr. Townsend and Annette were talking at the Court House?
  - A. Yes, sir.

- Q. I will ask you if it is not a fact that Mr. Townsend told her if she wanted to come back to New Orleans he would arrange for her to come?
  - A. Yes, sir.
  - Q. Well, when was that?
  - A. That if they would come around the next morning.
  - Q. Did you go around the next day?
  - A. No, sir; I was not there the next day.

#### CROSS-EXAMINATION.

#### Questioned by Mr. Ownby:

- Q. Who was he talking to?
- A. Annette Hays.
- Q. What is your business?
- A. Real estate and Deputy Constable.
- Q. You don't know whether she did go back or not?
- A. No. sir.
- Q. Do you know whether it was because she was afraid she might be arrested?
  - A. No, sir.
  - Q. You don't know how many time she was arrested?
  - A. No, sir.
- Q. You don't know, do you, that she had to sleep in the calaboose on the floor?

Objection sustained.

# FLORENCE BADEN, BEING RE-CALLED BY THE DEFENDANTS, TESTIFIED:

## Questioned by Mr. Howth:

- Q. I will ask you if it is not a fact that you told Teddy Morgan, the man who arrested you for being on the street at hours not permitted by the city ordinance, that you did not know that they were so strict on the girls?
  - A. Yes, sir.

- Q. I will ask you if you didn't also tell him that in New Orleans they were not so strict with the sporting girls, and would permit the sporting girls in New Orleans to walk the streets at any time?
  - A. I said they could see them at any time.
- Q. Didn't you say that in New Orleans the sporting girls walked the street at any time?
  - A. No, sir; I did not.
- Q. Didn't you also tell him that you came over to make some money during Carnival week?
  - A. No, sir.
- Q. Didn't you tell Mr. Morgan that you came over here to make some money during Carnival week, and that you were not making any money and wanted to go to Houston to see if you could make some money over there?
  - A. No, sir; I did not.

## W. E. MORGAN, A WITNESS FOR DEFENDANTS, TESTIFIED AS FOLLOWS:

## Questioned by Mr. Howth:

- Q. You were a police officer during the Carnival and just after the Carnival in Beaumont?
  - A. Yes, sir.
- Q. You know Florence Hays; you saw her this morning?
  - A. Yes, sir; and I had seen her before.
- Q. I will ask you if you had occasion to arrest her for walking the streets in Beaumont during hours not permitted by the city ordinance?
- A. Yes, sir; I arrested her and brought her to the station; she never was on the docket; I took her before the Chief, and he excused her and released her.
- Q. Now, I will ask you if she did not tell you in that conversation that she had come over from New Orleans to try to make some money during Carnival week?

A. Yes, sir; some of the girls did; one of the girls did; there were two of them together, and I don't know exactly which one.

Mr. Dailey: I ask that that be stricken out.

The Court: I will exclude the answer.

- Q. You saw the two girls that you are talking about this morning?
  - A. Yes, sir.
  - A. One of them is a girl called Florence?
  - A. Yes, sir.
  - Q. The other one, do you know her name?
  - A. Reta, I think.
- Q. You talked to both of them, and in the hearing and presence of both of them, did you?
  - A. Yes, sir.
- Q. Do you know which one of them told you that they came over here to make money during Carnival week?
  - A. No, sir; I don't know which one it was.
- Q. Was it the same girl that you and Mr. Luzenberg and I talked to in the District Attorney's office this morning?
  - A. I don't know which one; we had two in there.
- Q. One of the girls said they had more privileges in New Orleans and were permitted to walk the streets there and they did not know it was against the law here?
  - A. Yes, sir; one of them said that.
- Q. Was that the same girl who told you they came over here to make some money during Carnival week?
  - A. One of them said that.

Mr. Ownby: We object to that.

Objection sustained.

Defendants except.

Q. You say you don't know which one of the girls was doing the talking?

A. No, sir; I don't know which one it was.

Q. The two girls were together and one of them was doing the talking?

A. Yes, sir.

Q. I will ask you if the same girl who told you they had the privilege of walking the streets of New Orleans is the same one that said she came over here to make some money during Carnival week?

A. I don't know which one it was; I could not say

whether it was the same one or not.

# OUIDA LANDRY, BEING RE-CALLED BY THE DEFENDANTS, TESTIFIED:

Questioned by Mr. Howth:

- Q. I will ask you if you did not tell Teddy Morgan, the man who arrested you for walking the streets, in the presence of Annette, that you girls came over here to make some money during Carnival week?
  - A. I told him I did.
- Q. Didn't you tell him that you came over here to make some money during Carnival week?
  - A. No, sir; I told him I did.
  - Q. You said you did?
  - A. Yes sir.

Mr. Howth: Defendants offer the testimony of Dr. Reagan for the purpose of showing that Florence Hays had a disease commonly called gonorrhæa, and was treated by Dr. Reagan upon their arrival at Beaumont, for the purpose of showing their character and that they were prostitutes, and for the purpose of contradiction. This testimony was excluded by the Court, to which ruling of the Court the defendants excepted.

# E. D. HOLLAND, WITNESS FOR THE UNITED STATES, TESTIFIED AS FOLLOWS:

- Q. What is your business?
- A. I am on the police force.

- Q. What was your business or position in November of last year?
  - A. I was on the police force.
  - Q. From the 1st of November on?
  - A. Yes, sir.
- Q. What portion of the city was covered by you along in November?
- A. Along about the 1st, I believe, to along about the 14th or 15th, I was in the Reservation.
  - Q. Did you know Effie Hoke?
  - A. Yes, sir.
- Q. Do you know whether or not she had been running a house of prostitution in the Reservation?
  - A. Yes, sir.,
- Q. I will ask you if you were in her house at any time between the 1st and 2nd of November, whether there were any girls there, or whether the house was closed?
- A. I know the house was dark and nobody in there or around there; there were no lights, but I could not say whether there was anyone inside the house.
  - Q. What time in November was that?
- A. Along from the 1st to the middle; I don't remember the exact dates.
- Q. The house was dark, but you don't know whether there was anyone inside the house?
  - A. No, sir.
- Q. Were your duties to watch the houses and people around in that district?
  - A. Yes, sir.
  - Q. About what time was the house opened again?
- A. I didn't take any dates, but along about the 10th or 12th or 15th somewhere; I think it was closed a week, or something like that; I never took no dates.
  - Q. Do you know when the Carnival was here?
  - A. Yes, sir.
  - Q. Was it open then or not?
  - A. Yes, sir; I think so.

- Q. What time was the Carnival, do you remember?
- A. I believe it opened on the 21st.

#### CROSS-EXAMINATION.

## Questioned by Mr. Howth:

- Q. You say it seems to you like it was closed about a week?
  - A. Well, it was closed, Mr. Howth.
- Q. You did not take any special notice of it, and did not charge your memory with it at that time?
- A. I didn't take the dates, but it was closed and dark at night.
- Q. You didn't charge your memory with the affair at that time!
  - A. No, sir; not the particular dates.
- Q. You simply noticed that for a while it was closed up?
  - A. Yes, sir.
  - Q. Without taking note as to the length of time?
  - A. Yes, sir.
  - Q. It seemed like to you it was about a week?
  - A. Yes, sir; I believe it was seven or eight days.
- Q. You did not charge your memory at the time with the number of days?
  - A. No, sir.
- Q. You are just guessing at it from your memory at this time?
- A. I have thought of it since, but I would not swear as to the number of days.
- Q. Your recollection is that it was the early days of November!
  - A. Yes, sir.
  - Q. Previous to the 10th?
- A. Well, it was along about the first part of the month, somewhere from the 2nd on up; I was not down there until the 2nd, I believe.

- Q. You didn't watch that house all the time, did you?
- A. I didn't stand in front of the door and watch; I was in and around there.
  - Q. Your beat was the entire Reservation?
  - A. Yes, sir.
  - Q. How big is that place?
  - A. About two blocks.
- Q. Does it take up eight or nine blocks running east and west down Crockett Street and between Crockett and the railroad?
- A. That is not considered the Reservation that far this way.
  - Q. Did you patrol that district?
  - A. Yes, sir.
  - Q. How many blocks did you take in?
  - A. Sometimes as much as four, or hardly that.
- Q. You would not walk all the time; sometimes you would stand on the corner and talk to a man that came along?
  - A. Well, not very long; if I did, I would not tell it.
  - Q. You would not tell it?
  - A. No, sir.

# W. E. MARTIN, BEING RE-CALLED BY THE UNITED STATES, TESTIFIED:

- Q. What was your business in November of last year?
- A. Working on the police force.
- Q. Are you acquainted with Effie Hoke, and were you at that time?
  - A. No, sir.
- Q. Do you know the place where she was running this house in Beaumont in November of last year?
  - A. Yes, sir.
- Q. I will ask you whether or not her house in Beaumont was closed at any time during last year?
- A. Yes, sir; it was some time in November; I don't think there was anyone there.

- Q. How many days do you think it was closed?
- A. I think a week, or something like that.
- Q. What part of the month?
- A. The early part of the month, or maybe the latter part, I could not be sure; it seems to me like it was about the middle of the month some time; I could not say for sure.
- Q. Did you see Effie Hoke around there at any time you speak of the house being closed?
  - A. No, sir.
- Q. Did you see anyone else around there during the time it was closed?
- A. No, sir; there was nobody about there, I don't think. The maid was the first one I saw there, and then the bookkeeper came in.
  - Q. Was the maid a white woman or a colored woman?
  - A. Colored; that was after the girls came there.
- Q. Was the house closed up before or after the Carnival began?
  - A. Before the Carnival.

## CROSS-EXAMINATION.

## Questioned by Mr. Howth:

- Q. You don't mean to tell the jury that when Effie went to New Orleans she didn't leave any girls in the house?
  - A. The house was closed during that time.
- Q. The house appeared to be closed some time during November?
- A. Yes, sir; she might have left girls there when she went to New Orleans, I could not say.
- Q. Is it not possible that the girls she left there might have gone off looking for young men?
  - A. I suppose.
- Q. Don't you know, from your experience in the Reservation, that when the landlady is out the girls steal out

and take joy rides with their friends and visit different towns?

A. Yes, sir.

Q. Lots of the girls in the Reservation have lovers?

A. Yes, sir.

Q. Don't you know that when the landladies go away and leave girls in charge of her house they frequently get out and go fishing and hunting with their lovers?

A. They could have done it.

Q. Don't you know they go on camping trips in the woods?

A. Yes, sir.

Q. And go to Houston and Galvestton and Port Arthur, and stop in the hotels?

A. Yes, sir.

Q. You are not prepared to tell the jury that during. Effie's absence the girls she left did not do that?

A. No, sir.

Q. You are not prepared to tell the jury that such isn't a fact?

A. No, sir; I don't know it.

## RE-DIRECT EXAMINATION.

Q. You don't know whether she left any girls there at all when she went away?

A. No, sir; I could not say whether she did or not.

## RE-CROSS EXAMINATION.

Q. Do you know when the Hays girls came to Beaumont?

A. Yes, sir.

Q. Don't you know that when Effie came back those girls were in her house?

Q. Don't you know that she was in Effie's house several days, that the girls were before she came back?

A. About two days.

- Q. Don't you know that Ouida Landry was there several days before she returned?
  - A. No, sir.
- Q. Don't you know that Lucille Camp was there several days?
  - A. She might have been; I didn't see her.
  - Q. Do you know Florence of Port Arthur?
  - A. Yes, sir.
- Q. Don't you know that Florence Wilson was living in Beaumont in November, and at Effie's house?
- A. She was over here, but I don't know whether she was living here or not.
  - Q. Didn't you see her in Effie's house?
- A. That was when Effie was there; I don't know whether she was there before or afterwards; I know she was there.
  - Q. Do you know a girl named Ada?
  - A. I don't believe I do; I might if I should see her.
  - A. A tall, black-haired girl named Ada?
- A. There was a girl that married a fellow and went to Orange, but that was not her name.
- Q. Sometimes the girls would slip off at night and go riding?
  - A. They have been arrested for that.

### B. B. JOHNSON TESTIFIED FOR THE GOVERN-MENT:

### Questioned by Mr. Ownby:

- Q. What was your business or occupation in November of last year?
  - A. Policeman.
  - Q. Were you acquainted with Effie Hoke at that time?
  - A. Yes, sir.
- Q. Were you acquainted with the house where she lived?

A. Yes, sir.

Q. Down in the Reservation?

A. Yes, sir.

Q. During the month of November, 1910, do you know whether at any time that house was closed?

A. Well, I could not say positively whether it was or not; I worked from the 1st to the 3d, and was then taken away and put in the office for twelve or fourteen days; I laid off on the 2nd and worked the 1st and 3rd in the Reservation.

## TEDDY MORGAN, RE-CALLED BY THE GOVERN-MENT, TESTIFIED:

Q. Do you know whether or not, during the month of November, Effie Hoke's house was closed up and not doing business?

A. The lights were out and I never saw anything

stirring about the house for a few days.

Q. Just before the Carnival for a few days the lights were out?

A. Yes, sir.

Q. Were you on duty at night or in the day time?

A. I was on at night; I didn't work in the Reservation the first part of the night, but worked on Crockett Street and went to the Reservation at midnight and worked the last part of the night.

Q. Do you know where Effie was at that time?

A. No, sir; she was missing for a few days, but I don't know where she was.

Q. Was this the time you saw the house closed up?

Mr. Howth objects as leading.

Objection overruled.

Defendants except.

Q. Was during the time the house was closed the same time that Effie was missing from down there?

A. Yes, sir.

#### CROSS-EXAMINATION.

### Questioned by Mr. Howth:

Q. When these girls, Ouida and Reta, told you they could walk the streets in New Orleans, and did not know there was an ordinance against it here, did they tell you why they left Effie's house?

A. They told me it was because they could not make

any money, I think.

Q. Did they tell you where they wanted to go?

A. It seems to me they said they wanted to go to Houston.

## OUIDA LANDRY, BEING RE-CALLED BY THE UNITED STATES, TESTIFIED:

- Q. What day did you leave New Orleans for Beaumont?
  - A. The 11th of November.
  - Q. Who came with you, if anyone?

A. Lucille Camp.

Q. A daughter of Pauline

A. Yes, sir.

Q. Before you left New Orleans, did you and Lucille have a conversation with Effie Hoke?

Mr. Howth objects, because there is no predicate laid for it and it is not in surrebuttal.

The Court: The question was not finished, and I am not able to tell.

Q. Did not you and Lucille have a conversation with Effie Hoke in which Effie gave Lucille the key to her house and sent you two girls over here to open her house?

Objection overruled.

Defendants except.

Q. Go ahead and answer.

A. Yes, sir; gave Lucille the key, and when we got here Lucille herself opened the house; she told Lucille to watch out for things in her place while she was not there.

Q. She gave the keys to Lucille, and you all came over here, and she told Lucille to open up the house and take care of things until she got there?

Mr. Howth: There has been no predicate laid for that.

Objection overruled.

Defendants except.

- Q. When you got here did you find anybody in the house?
  - A. No sir, there was nobody in it.
- Q. How long after you got here and opened the house before Miss Effie came?
- A. Two or three days, I could not say exactly just when.
- Q. Who were the first girls that came to the house after you got here?
  - A. Annette, Florence, Gertrude and Theresa.
  - Q. Did they come before Miss Effie Hoke got there?
  - A. Yes sir.

## J. W. OWNBY TESTIFIED FOR THE GOVERN-MENT AS FOLLOWS:

## Questioned by Mr. Dailey:

- Q. Did any of the witnesses in this case make any complaint to you as United States Attorney about this case?
  - A. They did not.
- Q. How was this suit instituted and at whose direction?
- A. The first information I had was through a letter from the Attorney General of the United States at Washington.

Mr. Luzenberg: We object to any statement made in that letter.

The Court: I don't think the contents of the letter would be admissible. I think they ought to be permitted to show that the girls were not instrumental in having the suit brought.

The Witness: I will simply state that he called my attention to this case, and as soon as I could arrange my business to leave the office I left Paris and came to Beaumont and hunted these girls up. I did not know and never heard of them before. I had an officer to go with me and point them out to me and I talked with them about this case. I also went to Galveston where one of them was sick to see what she knew about the case, and afterwards had them subpænæd before the grand-jury at Paris. I never had had any information from the girls about the case one way or the other.

### CROSS EXAMINATION.

## Questioned by Mr. Howth:

- Q. Is it not a fact that you received a communication from Mr. Scurlock, the County Attorney?
- A. Not at that time; I did afterwards after I had a letter from the Attorney General. I learned afterwards that there was a statement taken and sent for that statement.
- Q. Don't you think the statement was sent to you by Mr. Scurlock without you sending for it?
- A. No sir, I think we sent for it; my recollection is not clear; I have a copy of the statement.
- Q. Is it not a fact that the attention of the Attorney General of the United States was called to it and your attention afterwards, and that all grew out of a complaint made to the State authorities that Effie Hoke would not let them have their clothes, and that it first

got to the attention of the Attorney General at Washington in that way?

A. That is true in a qualified way. I think the publicity did not grow out of refusing to let the girls have their clothes, but the publicity was by reason of the girls being arrested, and the injunction gotten out against her. The Attorney General enclosed a newspaper clipping of that transaction from Beaumont, and the publicity of the matter arose by reason of the fact that the girls had gone to Mr. Scurlock and made this complaint.

Q. You know that is what set the matter in motion and finally brought it to your attention?

A. I know the trouble between the two did it.

Q. Don't you know that resulted from the publicity given the matter, arose because of the girls making complaint against Effie Hoke for refusing to give them their clothes, the complaint to Mr. Scurlock?

A. I cannot say it is.

Q. Do you say it is not true?

A. No sir, I do not.

Q. I will ask you if in your opinion that is not the cause of this transaction?

A. My opinion is this: That the matter never would have been started and nothing known of it as far as Washington is concerned had not the newspapers published about the girls being arrested and Effie being enjoined from running this house of prostitution, and some one called the attention of the Attorney General to it and he ordered me to investigate it.

Q. Isn't it also a fact that the newspapers might not have known anything about it and no information sent to the Attorney General and by the Attorney General to you, had it not been for the fact that they made the complaint to Mr. Scurlock?

A. That might have been true.

Q. Is it not also true that that complaint to Marvin

Scurlock grew out of the fact that Effie Hoke refused to let them have their clothes?

A. Yes sir, I think so. I believe that was the beginning of the whole transaction, the row between Effie and the girls.

## ANNETTE BADEN RE-CALLED BY THE GOVERN-MENT.

- Q. Miss Annette, the night you left Beaumont, or left New Orleans for Beaumont, I should have said, did you try to borrow \$25.00 from Mr. Economides?
  - A. No sir.
  - Q. You say you did not?
  - A. No sir.

## [END OF TESTIMONY.]

Whereupon the defendants renewed their motion to instruct a verdict of acquittal, both jointly and severally, as set forth herein at the conclusion of the Government's opening case, being at the conclusion of the testimony of the witness Theresa Flood, said motion being made in extenso, but are not here repeated. Without repeating the same, defendants here refer to and make the same a part of this record at this place; and the Court after hearing argument thereon, and duly considering the same again, overruled and refused said motions, and defendants, and each of them again excepted to such ruling and pray that the said exceptions be noted and approved as a bill of exceptions and ordered incorporated in the record herein.

Whereupon defendants presented their requested special charges, which, omitting the captions and formal parts, are as follows to-wit:

1.

"Gentlemen of the Jury:

"You are instructed to acquit the defendants on the

following grounds, to-wit: Because the Act under which they are being prosecuted is unconstitutional and void.

#### FIRST.

"Because it interferes with the privileges and immunities of the citizens of the several States in this: That the right to travel interstate is a lawful right, which the act does not forbid, and any other citizen has the right to aid and assist the one making the journey, regardless of the moral or immoral intention of either.

#### SECOND.

"Because the Act does not make prostitution a crime, nor the interstate travel of a prostitute a crime, nor her intention to become a prostitute at the end of her journey a crime, and therefore the motive or intent of another, the defendants in this case, in aiding her to make such interstate journey, does not come within the constitutional grant to Congress to regulate commerce between the States, etc."

2.

"Gentlemen of the Jury:

"As the Act under which this indictment is drawn does not prohibit or forbid any woman or girl to travel from one State into another for the purpose of there engaging in prostitution or debauchery or other immoral purpose, her act in so traveling is lawful regardless of her intention, and under the Constitution of the United States, Congress can not make a crime of one aiding or assisting, or persuading or prevailing on her to take such journey, for the purpose of having her engage in prostitution or debauchery or other immoral purpose.

"You will, therefore, acquit the defendants."

3.

"Gentlemen of the Jury:

"If you believe from the evidence that the defendant Basile Economides did make an appointment with the girls named in the indictment or either of them to meet the defendant Effie Hoke, and that they did meet her through his appointment, and if you believe that after so meeting her he did advise them to come with her to Beaumont, Texas, but used no other means of persuad-

ing them to come and that he did no act toward furnishing them transportation from New Orleans to Beaumont, Texas, that then you should acquit the defendant, Economides."

4.

"Gentlemen of the Jury:

"There is no proof before you that the defendant, Basile Economides, rendered any actual aid or assistance in the transportation of Annette Baden, alias Annette Hays, of Florence Baden, alias Florence Hays, of Gertrude Baden, alias Gertrude Hays, in interstate transportation to Beaumont: and under the Act under which the indictment is returned in this case it is necessary and devolves upon the Government to prove that he actually rendered such aid and assistance in addition to persuading the said women or girls to go from New Orleans to Beaumont.

"You will, therefore, acquit the said defendant, Basile Economides, regardless of how you may find as to his

co-defendant."

5.

"Gentlemen of the Jury:

"You will not consider against the defendant Basile Economides any evidence in the case concerning what took place after the three girls named in the indictment arrived in Beaumont, Texas."

6.

"Gentlemen of the Jury:

"The count in the indictment in which it is charged that the defendant induced Gertrude Hays, or furnished transportation for her to come to Beaumont, is hereby withdrawn from your consideration, it appearing from Gertrude Hays' own evidence that she came to Beaumont, not by reason of any persuasion on the part of either of these defendants."

7.

"Gentlemen of the Jury:

"You are instructed that you cannot convict the defendant Economides for keeping a wine room in New Orleans, nor for any act he did, nor for any character of business he may have engaged in, and you are further instructed that you cannot consider such evidence except for the purpose of showing the situation of the parties, and shedding light on the specific acts charged in the indictment herein, if in your opinion it does shed light upon the same, in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Economides did the acts charged in the indictments. then you will acquit the defendant, notwithstanding you may disapprove of the business in which he is engaged in the City of New Orleans, and I further instruct you that you will not allow the fact that defendant is the keeper of a wine room, frequented by public women or prostitutes to in any way influence you in passing upon the defendant's guilt or innocence, except as herein charged.

"And I further charge you that you cannot convict the defendant Effie Hoke for keeping a bawdy house in Beaumont, nor can you convict her for attempting to have the girls arrested for taking their clothes away without first paving the debt due to defendant, nor can you convict defendant Effie Hoke for any act or thing she did or may have done in Beaumont, Texas, and you are further instructed that you cannot consider such evidence except for the purpose of showing the situation of the parties, and shedding light on the specific acts charged in the indictment herein, if in your opinion it does shed light upon the same, in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Effie Hoke did the acts charged in the indictment, then you will acquit the defendant notwithstanding that you may disapprove of the business in which she is or was engaged in Beaumont: and I further instruct you that you will not allow the fact that defendant Effie Hoke was the keeper of a bawdy house. in any way, to influence you in passing upon the defendant's guilt or innocence, except as herein charged."

8

"Gentlemen of the Jury:

"Unless you believe from the evidence beyond a reasonable doubt that the defendants knowingly and feloniously persuaded, induced, coerced, or caused to be persuaded, enticed, coerced or assisted in persuading, in-

ducing, enticing or coercing the said girls or either of them; and unless you further believe from the evidence beyond a reasonable doubt that such persuasion, inducing, enticing or coercing was the cause of their going from New Orleans to Beaumont for immoral purposes, and unless you further believe from the evidence beyond a reasonable doubt that defendants procured a ticket or tickets or caused the same to be procured, and that the procuring of such ticket and the furnishing of such money therefor, was for the purpose of inducing them to go to Beaumont for immoral purposes, then you must acquit the defendants."

10.

"Gentlemen of the Jury:

"If you believe from the evidence that the defendant Effie Hoke persuaded the said girls or either of them to come to Beaumont, and purchased a railroad ticket for them or either of them, or if you believe that she did either of said things, then you will acquit her unless you also further believe that they, the girls, came by reason of such persuasion and in this connection you are also instructed that if they came by reason of their own desire and will to do so, then you will acquit them, even if you should also believe that Effie Hoke persuaded them and furnished a ticket or either persuaded or furnished a ticket.

"And if you believe from the evidence that said girls came by reason of their own will, then you will acquit them even if you should also believe that the defendant Economides persuaded them to come, if you also believe that their coming to Texas was by reason of their own desires to come and not by reason of such persuasion."

#### 11.

"Now come the defendants in the above entitled and numbered cause, and move the Court to instruct the jury herein to find a verdict of not guilty, for the following reasons, to-wit:

1st: Because the evidence offered fails to show that the three girls which it is alleged in the indictment were caused to go and to be carried as passengers upon the line and route of a common carrier engaged in interstate commerce, were carried and transported over the line of the Texas and New Orleans Railroad Company, as is alleged in the said indictment.

2nd: Because the proof offered fails to show that the line of railroad of the Texas and New Orleans Railroad, and the line of railroad over which it is alleged in the indictment the said three girls were caused to be carried and transported as passengers from the City of New Orleans in the State of Louisiana, to the City of Beaumont, in the State of Texas, extends from the said City of New Orleans in the State of Louisiana to the City of Beaumont in the State of Texas."

12.

"Gentlemen of the Jury:

"All the testimony introduced by the Government in this case for the purpose of showing, or tending to show that subsequent to the arrival of the three girls in question in the City of Beaumont that Effie Hoke did, for the purpose of detaining them in her house, purchase clothing and other articles not needed or desired by them, and thereby kept them in her debt, is hereby withdrawn from you and you will not consider said testimony or any part thereof for any purpose whatever."

13.

"Gentlemen of the Jury:

"If you believe the defendant, Effie Hoke, loaned the money to the three girls in question, or either of them, with which they procured transportation to Texas, yet if you shall further believe that she loaned said money to them at their request and solicitation, or at the request or solicitation of either of said girls, or in so doing she wished simply to comply with their desires, and did not loan or give said money to them for the purpose of persuading or inducing them to come to Beaumont against their wills, then you will acquit the defendant Effie Hoke."

14.

"Gentlemen of the Jury:

"I charge you in this case the witness Theresa Flood is an accomplice to the defendant Effie Hoke, and you can not convict upon her testimony unless you believe it to be true, and then you cannot convict unless you believe

that it is corroborated, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must go further and connect or tend to connect defendant Effie Hoke with its commission."

But in each and every instance, the Court refused the same, to which ruling and refusal the defendants excepted, as more specifically set forth in separate bills, and pray that their said exceptions be here noted and approved and ordered incorporated in the record herein.

Whereupon the Court gave his general charge to the jury and upon conclusion thereof and before the retirement of the jury the defendants excepted thereto. All of which will more fully appear from said charge and exceptions which are as follows, to-wit:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TEXAS, AT BEAUMONT.

United States	)	
vs.	)	D. L. No
Effie Hoke and	)	
Basile Economides.	)	

CHARGE.

Gentlemen of the Jury:

This is a case by the United States against Effie Hoke and Basile Economides. The defendants stand charged by a bill of indictment filed in this Court on March 10, 1911, and the bill of indictment contains three separate and distinct counts.

In the first count it is charged that the defendant, Effie Hoke, knowingly and unlawfully persuaded, induced and enticed one Annette Baden, alias Annette Hays, to come from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and after being

so induced and persuaded, she made that interstate journey from the City of New Orleans, Louisiana, to the City of Beaumont, Texas, for the purpose of prostitution, and by reason of the inducements and persuasion, after arriving in Beaumont, Texas, she engaged in the practice of prostitution, and the count further charges that the defendant, Basile Economides, knowingly aided and assisted the defendant, Effie Hoke, in so inducing, persuading and enticing the girl Annette Baden, alias Annette Hays, to come from New Orleans to Beaumont for the purpose of prostitution.

The second count in the bill of indictment is substantially like the first count except it alleges that Effie Hoke persuaded, induced and enticed Florence Baden, alias Florence Hays, to come from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution, and that by reason of such persuasion and inducement, she came to Beaumont and engaged in the practice of prostitution, and that the defendant, Basile Economides, knowingly aided and assisted the said Effie Hoke in so persuading and inducing the girl, Florence Baden, alias Florence Hays, to make the interstate journey from New Orleans to Beaumont for the purpose of prostitution.

The third count alleges that the defendant, Effie Hoke, knowingly persuaded, induced and enticed the girl, Gertrude Baden, alias Gertrude Hays, to come from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution, and by reason of such persuasion, inducement and enticement, she made the interstate journey from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution, and after arriving at Beaumont, Texas, she engaged in the practice of prostitution, and that the defendant, Basile Economides, knowingly aided and assisted the defendant, Effie Hoke, in so persuading, inducing and enticing the girl Gertrude Baden, alias Gertrude Hays, to travel from New Or-

leans, Louisiana, to Beaumont, Texas, for the purpose of prostitution.

The Court does not undertake, Gentlemen of the Jury, to recite to you in full the allegations contained in these several counts in the bill of indictment, but my purpose is merely to give you a brief, compact description of the charges, so you may be able to understand the principles of law which I shall hereafter give you in passing upon the guilt or innocence of the defendants.

I desire, in this connection, to inform the jury that it will be your duty under the instructions given you by the Court, and the evidence submitted to you by the witnesses to determine whether the defendants are guilty upon one, two or all three of the counts contained in the bill of indictment. It is the province of the jury to find the defendants guilty on one count and not guilty on the others, or to find the defendants guilty upon all of the counts or not guilty on all the counts. In other words, the jury have the power, under their oaths applying the evidence to the law, to find the defendants guilty on count one, count two and count three, or you can find them guilty on either one of these counts, and not guilty as to the others, or not guilty as to all the counts, as you see fit, applying the facts in evidence to the law as given you in charge. The Court also tells the jury that it is within your power to find one of the defendants guilty and the other not guilty, if you should so find under the evidence before you and the law given you in charge. It is not necessary to the validity of your verdict, if you find one defendant guilty that you should also find the other defendant guilty, but you should find both defendants guilty only if you believe them guilty under the evidence and the law as given you in charge by the Court. I think I have made it clear that you have the power under the law to find both defendants or either one of them guilty as you see fit; or find them guilty upon one, two or three counts, as you see fit. You have to specify in your verdict which of the counts you find the defendants guilty on, bearing in mind that the first count charges a violation of the law as to the witness Annette Baden, alias Annette Hays, and the second count charges a violation of the law as to the witness Florence Baden, alias Florence Hays, and the third count charges a violation of the law as to the witness Gertrude Baden, alias Gertrude Hays.

Some observations have been made in argument by counsel to the jury in reference to this law. matter altogether for the Court. The jury have nothing in the world to do with the law, except to be governed by the instructions as to the law delivered to you by the Court. But those observations having been made to the jury, it may not be out of place for the Court to state to you in this connection that the law under which this indictment was returned does not attempt to punish the keeping of a bawdy house within any of the States of the American Union. It does not attempt to punish or regulate in any manner whatever the act of prostitution committed by any woman within any of the States of the The whole scope of the law and its limitations are that it does attempt to prohibit and punish the persuading, the inducement, the coercion or the enticement of any woman from one State to another State for the purpose of prostitution. It is one of the methods by which the Congress of the United States has endeavored to regulate and keep pure the channels of interstate commerce, and, while it may not be necessary, yet in view of the argument during the trial of this case, the Court states to you here now that the law under which this indictment has been drawn was a constitutional and legal exercise of power by the Congress of the United States, and the law is valid and binding upon all citizens of the United States.

The law under which this indictment was drawn consists of several sections, but it will not be necessary for

the Court to call your attention to more of those sections than those upon which this indictment was prepared. The indictment was framed under Sections 3 and 4 of this law which was passed by Congress, and the law became operative on the 25th of June, 1910.

The Third Section of the law provides:

"That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be guilty of a felony."

That is the Third Section under which the first two counts of the indictment were framed.

The Fourth Section, under which the third count of the indictment was framed, is as follows:

"That any person who shall knowingly persuade induce, entice, or coerce any woman or girl under the age of eighteen years from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, with the purpose and intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution or debauchery, or any other immoral practice, and shall in furtherance of such purpose knowingly induce or cause her to go and be carried or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers, shall be deemed guilty of a felony."

The jury will observe from the reading of the two sections I have given you that one of the salient features of distinction between Section Three and Section Four is that in the last section an element of the case which the Government must prove is that the girl must be under Under Section Three the the age of eighteen years. age of the girl is immaterial, and this section applies to counts one and two of the bill of indictment. Section Four under which the third count of the indictment was framed, the Government must prove that the girl who was so induced to make the interstate journey for the purpose of prostitution was at that time under the age of eighteen years, so in this bill of indictment count three, which charges that the girl Gertrude Baden, alias Gertrude Hays, was induced, enticed and persuaded by the defendants to make the journey described in the bill of indictment was at that time under the age of eighteen years, and that fact must be proven by the Government as an element of the case necessary to a verdict of conviction.

In explanation of the meaning of the term "interstate commerce" the first section of the act from which I have read sections three and four defines briefly, simply and clearly what Congress means by "interstate commerce."

It says:

"That the term 'interstate commerce' as used in this Act shall include transportation from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia."

The Act further defines foreign commerce, but that part of the Act is not necessary to be given you in charge. So that interstate commerce means the transportation of a person from one State to another State.

Now, in order to assist the jury in understanding the matter, and in applying the facts of the case to the law given you in charge, the Court desires to briefly summarize the necessary elements of the case as applied to each count in the bill of indictment and each section of the law as I have read it to the jury.

Under section three, and I observe again that that section makes the age of the woman immaterial, in order to constitute the offense, the following elements must concur: That the defendants knowingly persuaded, induced or enticed, or aided or assisted in persuading, inducing, or enticing a woman or girl to come from one place to another place in interstate commerce for the purpose of prostitution, or with the intent and purpose on the part of the defendants that such woman or girl shall engage in the practice of prostitution. Now, so far as this element of the offense is concerned, it is immaterial whether the girl after being so persuaded engaged in the practice of prostitution with or without her consent. other necessary element of the offense under section three is that the defendants by such persuasion, inducement or enticement knowingly caused, or aided or assisted in causing such woman or girl to come and be carried as a passenger upon the line of any common carrier engaged in interstate commerce. Those are the necessary elements which the Government must prove beyond a reasonable doubt before you would be authorized to convict under the first two counts mentioned in the bill of indictment, which two counts were drawn under Section Three of the Act which I read to you a moment ago.

The necessary elements which the Government must show in order to make out an offense under Section Four of the Act, and which is intended to be embraced in the third count of the bill of indictment are, first that the defendants knowingly persuaded, induced or enticed a woman or girl under the age of eighteen years from one State to another State with the purpose and intent, or that she shall be induced or coerced to engage in the practice of prostitution. Second, that the defendants in furtherance of such purpose knowingly induced or caused

such woman or girl under the age of eighteen years to go and be carried in interstate commerce as a passenger upon the line of road of any common carrier.

Now, gentlemen, the term "common carrier engaged in interstate commerce" means simply this: That it is a carrier which transports persons or property for hire between one place in one State and another place in another State, and if you believe the carrier which brought these girls from New Orleans, Louisiana, to Beaumont, Texas, was a carrier which transported persons or property for hire, then the Court informs you, as a matter of law, that it would be a common carrier engaged in interstate commerce.

During the progress of this trial the Government has been permitted to show certain acts and declarations made by the defendant, Effie Hoke, some of them outside the presence of the defendant, Economides, and, therefore, it becomes necessary for the Court to inform you as to the legal effect of those acts and declarations of the defendant, Effie Hoke, insofar as the defendant, Basile Economides is concerned; and the Court, therefore, tells you, in this connection, that the acts and declarations of the defendant, Effie Hoke, outside of the presence and hearing of the defendant, Basile Economides. must be considered by the jury only against the defendant, Effie Hoke, and they will not be evidence against the defendant, Basile Economides, unless the jury finds beyond a reasonable doubt from the evidence that there was an agreement or common purpose between the two defendants to commit the offense charged in the bill of But if you believe from the evidence bevond a reasonable doubt that there was an agreement or common understanding between the two defendants to commit the offense charged in the bill of indictment, then I inform you, as a matter of law, that the act of one becomes the act of both when done in pursuance of the common design. In such case it is the act of the person who did it by perpetration and becomes the act of the other by adoption, provided the jury believes that there was a common purpose and design to commit the offense.

In this connection, I further charge you that any act or declaration of the defendant, Effie Hoke, made after the girls Annette, Florence and Gertrude left the City of New Orleans would not be evidence against the defendant, Basile Economides, but the jury may consider it as evidence against the defendant, Effie Hoke. In other words, if you believe there was a design and conspiracy between the two defendants to commit the offense charged, then the act of one becomes the act of the other when performed in pursuance of the common design, but it must have been done during the conspiracy. After the conspiracy, if you believe there was such, has terminated, then the act is only evidence against the one who does it, and is not evidence against the other.

The Court further tells you that if you find that the defendant, Basile Economides, did no more than introduce the girls. Annette, Florence and Gertrude, to the defendant, Effie Hoke, he would not be guilty under either of the counts in the bill of indictment. the other hand, if you find from the evidence beyond a reasonable doubt that the defendant, Basile Economides, knew the unlawful purpose of the defendant, Effie Heke, to induce, entice or persuade these girls or either of them to make the interstate journey for the purpose of prostitution; and if you believe beyond a reasonable doubt that he introduced the girls to Effie Hoke in order to afford her an opportunity to persuade, induce or entice them to make the interstate journey, for the purpose of prostitution, and knowing that the defendant, Effie Hoke, intended to so persuade, induce or entice them, then he would be guilty as a principal offender in the crime charged.

In this connection, the Court further tells you that if you believe from the evidence that the girls came to Beaumont because of their own will and desire to do so, and not on account of being persuaded, induced or enticed to come, then, in such case, neither of the defendants would be guilty under any of the counts in the bill of indictment. But the Court tells you, in this connection, that it was not necessary that they should have been forced or coerced to come in order to render the defendants guilty under this bill of indictment. If their consent to come was secured by the defendants either persuading, inducing or enticing them to come, that would be sufficient under the law, even though they may have thereafter willingly come. It is for the jury to determine from all the facts whether the three girls named in the bill of indictment came from New Orleans to Beaumont of their own free will, and in obedience to their own wishes, or whether they were persuaded, induced or enticed to come by the defendants. If they came of their own free will and accord, without being persuaded, induced or enticed to come, then neither of the defendants would be guilty. But, though they came voluntarily, if their volition was obtained by the persuasion, inducement or enticement described in the bill of indictment. then the defendants would be guilty.

I also tell you, gentlemen of the jury, that if the jury find from the evidence beyond a reasonable doubt that the defendants persuaded, induced or enticed the three girls mentioned in the bill of indictment to come from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution, then it is absolutely immaterial whether they were prostitutes before they began the journey or not. It is just as much a violation of the law I have read you to persuade, induce or entice a prostitute to make an interstate journey for the purpose of prostitution at the end of the journey as it would be to persuade, induce or entice a woman of virtuous habits

to make such journey for the purpose of prostitution. The law does not make any distinction between the two. It is the persuasion, inducement or enticement for the purpose of prostitution that constitutes the offense, and the character of the woman so persuaded, induced or enticed is an immaterial consideration, except you may consider the character of the girls named in the bill of indictment for the purpose of enabling you to pass upon their credibility and the weight to be given to their testimony, and for the purpose of enabling the jury to determine the question of whether they came of their own accord or were persuaded, induced or enticed to come.

With reference to the third count in the bill of indictment, if the jury find from the evidence that the witness Florence Baden, alias Florence Hays, persuaded her sister Gertrude to come to Beaumont, but you believe from the evidence beyond a reasonable doubt that in so doing she acted for the defendants and at their request. then I inform you, as a matter of law, that the act of Florence in trying to persuade, induce or entice her sister Gertrude to make the interstate journey would be the act and statement of the defendants or the one of them who requested her to see and persuade Gertrude, and the defendants, or the one of them who made the request. if after being made, Florence acted upon it, would be liable and bound by the persuasion, inducement or enticement that Florence offered to Gertrude, but the Court tells you, furthermore, that if Gertrude came of her own accord, or through the persuasion of her sister Florence, and you do not find that Florence in so persuading her was acting for the defendants, then the defendants can not be convicted on count three, and it would be the duty of the jury to acquit them upon that count if you find that to be true.

Gentlemen, it has been suggested in the evidence on behalf of the defendant, Effie Hoke, that at the time of the alleged commission of the offense she was so drunk as to

be unconscious of what she was doing, and therefore it comes the duty of the Court to inform you as to the rule of law to govern the jury in that state of the case.

The general rule is that intoxication itself is no defense to the fact of guilt, but when the question of intent and premeditation is concerned, evidence of intoxication is admissible. If the defendant, Effie Hoke, was so drunk as not to be conscious of the nature of her act, and not to know she was doing anything wrong, so drunk as to be incapable of entertaining the specific intent described in the bill of indictment, that character of intoxication would be a defense, and if you believe from the evidence that at the time of the alleged commission of the offense the defendant, Effie Hoke, was so intoxicated as to be incapable of entertaining the specific intent charged in the bill of indictment, then it would be the duty of the jury to acquit the defendant Effie Hoke.

During the course of the argument, much has been said to the jury in reference to the penalty in this case. and, as said by counsel, there is a very wide latitude in the matter of the penalty. The Court desires to tell you that the question of the penalty is a matter with which you have nothing in the world to do. Your duty will have been discharged when you have determined whether the defendants are guilty, and my duty will begin, if I should see fit, after reviewing the case, to ratify the verdiet you find. The matter of penalty is for the Court and not for the jury. That is a matter that ought not to have been suggested to you in argument, and you must eliminate it from your deliberations as being out of your province and exclusively in the power and province of the Court.

Now, gentlemen, applying the facts in evidence before you to the law I have given you in charge, if you find from the evidence beyond a reasonable doubt, that the defendant, Effie Hoke, on or about the 14th of November, 1910, in the City of New Orleans, in the State of Louisi-

ana, did knowingly persuade, induce and entice the witness Annette Baden, alias Annette Hays, to go from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution; and if you further so believe that the said Effie Hoke did then and there and thereby knowingly cause the said Annette Baden, alias Annette Hays, to go and be carried and transported as a passenger upon the line or route of a common carrier engaged in interstate commerce between the City of New Orleans and the City of Beaumont, with the intent and purpose of her, the said Effie Hoke, that the said Annette Baden, alias Annette Hays, should engage in the practice of prostitution in the City of Beaumont; and if you further find from the evidence beyond a reasonable doubt, that by reason of having been so persuaded, induced and enticed, she, the said Annette Baden, alias Annette Hays, did then and there go and was transported in interstate commerce over the line or route of said common carrier from the City of New Orleans, in the State of Louisiana, to the City of Beaumont in the State of Texas, and that thereafter by virtue of such persuasion, inducement and enticement did engage in the practice of prostitution in the City of Beaumont, then you will find the defendant, Effie Hoke, guilty on the first count in the indictment.

And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans in the State of Louisiana, on the said 14th day of November, 1910, did knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Annette Baden, alias Annette Hays, to come in interstate commerce from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent upon the part of him, the said Basile Economides, that the said Annette Baden, Alias Annette Hays, should engage in the practice of prostitution in the City of Beaumont, then in that event you will also find the de-

fendant, Basile Economides, guilty under count number one of this indictment.

Having disposed of count No. 1 in your deliberations, it would then be the duty of the jury to take up count No. 2 in the bill of indictment, and I instruct you as follows as to count No. 2.

If you find from the evidence beyond a reasonable doubt that the defendant, Effie Hoke, on or about the 14th of November, 1910, in the City of New Orleans in the State of Louisiana, did knowingly persuade, induce and entice the witness Florence Baden, alias Florence Hays, to go from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution; and if you further so believe that the said Effie Hoke did then and there and thereby knowingly cause said Florence Baden, alias Florence Hays, to go and be carried and transported as a passenger upon the line or route of a common carrier engaged in interstate commerce between the City of New Orleans and the City of Beaumont, with the intent and purpose of her, the said Effie Hoke, that the said Florence Baden, alias Florence Hays, should engage in the practice of prostitution in the City of Beaumont: and if you further find from the evidence beyond a reasonable doubt that by reason of having been so persuaded, induced and enticed, she, the said Florence Baden, alias Florence Hays, did then and there go and was transported in interstate commerce over the line or route of said common carrier from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, and that thereafter by virtue of such persussion, inducement and enticement did engage in the practice of prostitution in the City of Beaumont, then you will find the defendant. Effie Hoke, guilty on the second count in the indictment.

And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans, in the State of Louisiana, on the said 14th day of November, 1910, did knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Florence Baden, alias Florence Hays, to come in interstate commerce from said City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent upon the part of him, the said Basile Economides, that the said Florence Baden, alias Florence Hays, should engage in the practice of prostitution in the City of Beaumont, then in that event you will also find the defendant, Basile Economides, guilty under count No. 2 of this indictment.

Now, having disposed of count No. 2, it will be the duty of the jury to give their attention to count No. 3 in this bill of indictment, and upon that count the Court informs you:

If the jury find from the evidence beyond a reasonable doubt that Effie Hoke, on the 14th day of November, 1910, in the city of New Orleans in the State of Louisiana, did knowingly persuade, induce and entire Gertrude Baden, alias Gertrude Hays, to go from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in State of Texas, in interstate commerce for the purpose of prostitution; and if you further find from the evidence beyond a reasonable doubt that the said Gertrude Baden, alias Gertrude Hays, was then and there under the age of eighteen years, and that the said Effie Hoke did then and there, by such persuasion, inducement and enticement, knowingly cause the said Gertrude Baden, alias Gertrude Hays, to go and be carried and transported as a passenger upon the line or route of a common carrier engaged in interstate commerce between the City of New Orleans, in the State of Louisiana, and the City of Beaumont, in the State of Texas, with the intent and purpose of her, the said Effie Hoke, that the said Gertrude Baden, alias Gertrude Hays, should engage in the practice of prostitution in the City of Beaumont, in the State of Texas; and if you further find from the evidence beyond a reasonable doubt, that the said Gertrude Baden, alias Gertrude Hays, by reason of being so persuaded, induced and enticed, did then and there go and was transported in interstate commerce over the line or route of a common carrier from the City of New Orleans in the State of Louisiana, to the City of Beaumont in the State of Texas, and thereafter upon arriving in the City of Beaumont engaged in the practice of prostitution by virtue of such persuasion, inducement and enticement by the said Effie Hoke, then you will find the defendant, Effie Hoke, guilty under count No. 3 of this bill of indictment.

And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans and State of Louisiana, on the date alleged in the bill of indictment, did knowingly aid and assist the said Effic Hoke to so persuade, induce and entice the said Gertrude Baden, alias Gertrude Hays, to come in interstate commerce from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent then and there upon the part of him, the said Basile Economides, that the said Gertrude Baden, alias Hays, should engage in the practice of prostitution in the City of Beaumont, then you will find the defendant, Basile Economides, guilty under the third count in this bill of indictment.

Now, gentlemen, both of the defendants, in answer to the bill of indictment, have pleaded "not guilty," and that plea by the defendants puts the Government upon the proof of the facts necessary to establish the case as I have attempted to define and explain it to you in this charge. The burden is on the Government to show the guilt of the defendants beyond a reasonable doubt, and in case you have a reasonable doubt as to the guilt of the defendants, or either of them, it is your duty to find

them, or either of them, concerning whose guilt you have a reasonable doubt, not guilty. If you find from the evidence beyond a reasonable doubt that one of the defendants is guity, but entertain a reasonable doubt as to the guilt of the other, it would be the duty of the jury to acquit the one of whose guilt you have a reasonable doubt, and convict the one whom you believe beyond a reasonable doubt to be guilty. If you believe beyond a reasonable doubt that both defendants are guilty, it would be your duty to convict both of them, and upon those counts in the bill of indictment upon which you believe beyond a reasonable doubt they are guilty. I want to say a word on the subject of reasonable doubt. It must not be a fanciful doubt, or such a doubt as originates or arises in a disordered mind, but must be a reasonable doubt, such a doubt as would arise in the mind of a sensible or reasonable man from the evidence or lack of evidence in Where the evidence in the case is of such a character that a sensible and reasonable man would feel justified in acting upon it in matters of the highest importance and concern to his own interests, then the degree of strength and cogency required by the law has been attained. Where it falls short of this test the doubt is such a reasonable doubt as would authorize the jury to acquit. That is the kind of doubt the law means, and what the Court means in telling you you would be justified in acquitting the defendants if you entertain a reasonable doubt. It must be such a doubt as arises from a lack of evidence or from the evidence in the case in the mind of a reasonable man.

You are the exclusive judges of the facts. With that the Court has nothing to do. You are the judges of the credibility of the witnesses, and of the circumstances in evidence and the weight to be given to the testimony of the witnesses.

As to the law, it is your sworn duty to be governed by the charge given to you by the Court. It would be just as much a violation of your oaths to disregard the instructions given you by the Court as it would be to disregard what you believe to be the truth as sworn to by the witnesses. The law has wisely separated the province of the jury from the province of the Court, the jury being the exclusive judges of the facts, and the Court instructing them on the law.

If you find one defendant guilty, specify which defendant you find guilty and upon what count or counts. If you find both defendants guilty, say so, and on which counts you find them guilty. If you find the defendants guilty, you may say "We the jury find the defendant (mentioning the one or ones by name) guilty on count" and then specify on what count or counts. If on count No. 1, so specify, and if in addition on count No. 2, so specify, and if on count No. 3, so specify.

If you find both defendants not guilty on all counts return a general verdict saying "We, the jury, find the defendants Basile Economides and Effie Hoke not guilty," and if one defendant is found guilty and the other not guilty, frame your verdict to conform to your finding.

When you go to the jury room to deliberate, select your own foreman, and when you reach a verdict, reduce it to writing according to the instructions given you, and let it be signed by the member of your body you select as foreman.

# EXCEPTIONS TO CHARGE.

Mr. Greer: We except to the charge, first, it omits to charge that persuasion, etc., must be connected with and followed by actual rendition of aid and assistance. Second: It omits to define the difference between mere persuasion and advice as to the females. Third: It omits definitions of prostitution, debauchery and other immoralities, leaving the jury to infer that prostitution

as such is necessarily limited to houses of prostitution, whereas prostitution includes all acts of lewdness upon the part of a female. Fourth: It omits to instruct a verdict of not guilty in favor of the defendant Economides, there being no evidence that he rendered actual aid and assistance towards the interstate journey of the females. Fifth: Because it omits to instruct a verdict of not guilty on the ground that the law under which the indictment was drawn is unconstitutional and void. Sixth Because as to the female Gertrude Hays, the Court omits to charge the jury in express terms that the proof shows that the defendant Economides did not in any way persuade or assist in getting her to come to Beaumont for any purpose whatever. Seventh: Because it omits to charge that after arriving at the house of Effie Hoke in Beaumont and before becoming inmates thereof, they were informed and told the kind of house it was, and they could have withdrawn and not entered said house, and thereby destroying the incriminating facts charged under the law, and showing no offense committed against the law.

We except to that part of the charge which states to the jury that the law is constitutional.

We except to the charge because it fails to state to the jury that when there has been persuasion or inducement it must be accompanied by an actual rendition of assistance in traveling.

We except to that part of the Court's charge defining conspiracy in that, first: Prostitution is not denounced as a crime by the terms of this act. Second: The traveling of prostitutes is not prohibited by the act. Third: Prostitution is not made a crime under the act, and there can be no conspiracy committed in the exercise of a lawful act.

We except to that part of the charge which permits the jury to consider Florence as the agent and acting for the defendants in her persuasion of the female Gertrude to come to Beaumont for the purpose of engaging in prostitution.

We make one general exception to the failure and refusal of the Court to give the various and sundry special charges asked by the defendant Economides individually and in conjunction with his co-defendant, Effie Hoke.

Mr. Howth: We join in the exceptions made by the defendant Economides insofar as they are applicable to our client.

We except to the refusal of the Court to give the special charges asked by the defendant, Effie Hoke.

We except to that part of the charge of the Court in which he explained to the pury what was meant by reasonable doubt, in which he emphasized those things which do not constitute reasonable doubt, because the same are calculated to impress on the minds of the jury that the Court is of the opinion that there is no reasonable doubt of the defendants' gulit.

We except to that portion of the Court's charge in which he tells the jury that they can convict one defendant without convicting the other, because in connection therewith he failed to tell the jury that they could also acquit both the defendants if in the opinion of the jury they were not guilty beyond a reasonable doubt under the evidence and under the law as given in charge by the Court, because the same is calculated to impress on the minds of the jury, and did impress on the minds of the jury that the Court believed one of the defendants was guilty and the other not.

We except because the Court failed and refused to tell the jury to acquit the defendants upon one count in the indictment which charges the enticement of Gertrude Hays, because the evidence shows from the testimony of Gertrude Hays that her coming to Beaumont was by reason of the fact that her sisters were coming, and that she came because she was following in their footsteps, and she did not come because of anything the defendants said or did.

We except to the refusal of the Court to give our special instructions.

Mr. Greer: We except to the Court's definition of reasonable doubt to the jury, because it is a comprehensive term that anybody understands, and for it there is no specific definition in law.

To all which actions and rulings of the Court, the defendants then and there, jointly and severally, in open court duly excepted, and now here present this their bill of exceptions thereto, and pray that the same be approved and ordered incorporated in the record herein.

All of which is accordingly done this the 23rd day of May, A. D. 1911.

## GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Criminal No. 167. United States vs. Effic Hoke and Basile Economides. Defendants' Bills of Exception Nos. 1 and 2. Bill No. 1 includes rulings of the court on motions to quash and demurrers to indictment. Bill No. 2 includes testimony adduced by the Government and defendants, with motions to instruct verdicts of acquittal. Filed May 23, 1911. J. R. Blades, Clerk.

# BILL OF EXCEPTIONS No. 3.

Filed May 23, 1911.

In the United States District Court for the Eastern District of Texas.

United States

versus

No. C. L. 167

Effie Hoke and

Basile Economides.

Be it remembered that on the trial of the above entitled and numbered cause in this court, on the 7th day of April and at the April Term, 1911, thereof, the Hon. Gordon Russell, Judge presiding, the following proceedings were had:

That while the witness Annette Baden alias Annette Hays, a witness called by the United States, was on the witness stand, being one of the persons who the defendants are charged with having transported from New Orleans to Beaumont, and with having persuaded to leave New Orleans and go to Beaumont, Texas, for immoral purposes and for the purposes of prostitution, and while said witness was being cross examined by the attorneys for the defendants, the following question was asked by the defendants' counsel:

Q. "I will ask you if it is not a fact that you and Ouida Landry, in the city of New Orleans, prior to coming to Beaumont, were not engaged in the business of soliciting the patronage of men for the purposes of prostitution, and is it not a fact that you followed that vocation around the passenger depot and on the streets?"

Which question was then and there objected to by the Assistant U. S. District Attorney as irrelevant and immaterial, and which objection was sustained by the Court, and the witness was not permitted to answer said question: and if she had been permitted by the Court to answer said question it is expected by these defendants

that she would have answered that in the City of New Orleans, La., prior to coming to Beaumont, Texas, she and Ouida Landry were engaged in soliciting the patronage of men for the purpose of prostitution, and that they plied such vocation around the passenger depots of said city.

Said testimony was claimed by defendants to be admissible, relevant and material for the purpose of—

- (1) Establishing the fact that the said Annette Baden (alias Hays) was a public prostitute in New Orleans before she came to Beaumont, Texas.
- (2) Shedding light on the probability that Annette Baden (alias Hays) came to Beaumont, Texas of her own free will, and not because she was coerced or persuaded to come, as alleged in the indictment.

And the defendants then and there duly excepted to 'the action and ruling of the Court in sustaining the objection of the Assistant United States District Attorney, and in refusing to permit said question to be asked and answered by the witness, and in refusing to permit said answer to go before the jury, and here now tender this their bill of exception No. three, and pray that same be signed by the Court and filed by the Clerk as part of the record in this case, which is accordingly done with the attached qualification this 23d day of May, 1911.

GORDON RUSSELL,

Judge.

Bill of Exception No. 3 is signed with the following qualifications:

The witness had already been subjected to a very severe and searching cross-examination as to her habits, manner of living and morals, and had already stated that she was not a virtuous woman while she lived in New Orleans; that she had made assignation with men at hotels, and had prostituted herself with them for hire.

Had denied in answer to cross examination, that she had walked the streets; that she was known as a street-walker; that she had frequented assignation houses; that she met any and all men that wanted to meet her; that she made it her business to stay with men for hire. (See pages 34 and 35 of Bill of Exception No. 2).

The objection was sustained to the court, not only because it was irrelevant and immaterial, but because the subject matter had been thoroughly gone over showing

that she was not a virtuous woman.

## GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effic Hoke and Basile Economides. Bill of Exception No. 3. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 4.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States of America

versus

No. D. L. 167.

Effie Hoke and Basile Economides.

Be it remembered that on the trial of the above entitled and numbered cause in this court, on the 7th day of April, 1911, and at the April Term, 1911, of said court, the Hon. Gordon Russell, Judge, presiding, the following proceedings were had, to-wit:

A jury was impaneled and sworn according to law, the United States District Attorney, appearing for the United States, thereupon called as a witness for the United States the witness Annette Baden, alias Annette Hays, and thereupon the court permitted said witness to

testify, on her direct examination, in reply to questions propounded by the United States District Attorney, over the objection of the defendants, and each of them, to the following effect:

"After we arrived in Beaumont we staved with Effie Hoke a week and a half, and could not get out of debt. Peddlers would come along and she would buy us things and we got in debt more and more and we never could get out of debt, so one morning we decided to take up our clothes and go away. We packed up our clothes and one of my sisters got out in the morning and Gertrude did not get out. Ouida Landry and Florence got out. They left the house about five o'clock, and Paul came back for us, the balance of us, and Effic Hoke woke up, and Effie Hoke said to him, 'You have taken Florence and Ouida and now you have come for Annette and Gertrude' and she phoned for an officer and had him arrested, so the officer came and took Paul away. came into my room and taken my clothes and Gertrude's and put them in a vacant room and locked them up. Effie Hoke told us she would keep our clothes until we paid her what we owed her. That afternoon Florence and Ouida got out, she would not give me my hat or coat or anything, so I borrowed the maid's coat and went to the postoffice and there I met Florence and Ouida, and was talking to them and was on my way back to Miss Effie's to stay with Gertrude, and an officer came up and said 'Miss Effie has got all three of you up for vagrancy,' and he said 'You are under arrest.' I phoned her (meaning Miss Effic Hoke) and asked her if it was so, that the Marshal said I was under arrest, and that she had all three of us up for vagrancy, and she said 'yes'."

To all of which testimony and the questions in reply to which it was given, the defendants and each of them through their attorneys then and there duly objected, on the ground that same was and is immaterial, incompetent, irrelevant and does not shed light upon any of the issues in this case, and because what took place after the arrival of the witness and her sisters in Beaumont could not, and does not constitute any offense against the Federal statute, and because said matters and things about which said witness was permitted to testify do not constitute any part of the charge in the bill of indictment, and because said testimony was and is highly prejudicial to the defendants and each of them, and calculated to arouse the passions of the jury, and inflame their minds against these defendants, and said testimony was further objected to by counsel for the defendant Economides, that as to him said testimony was hearsay and inadmissible.

And the Court having overruled said objections made by the attorneys for the defendants and having permitted said testimony to go before the jury, the defendants, through their counsel, then and there duly excepted to the action and the ruling of the Court and here now tenders this their bill of exception No. 4, and pray that the same be allowed, signed by the Court in attestation of its correctness, and ordered filed by the Clerk of the Court as a part of the record in this case, which is accordingly done this 23rd day of May, 1911, with the attached qualification.

GORDON RUSSELL,

Judge.

This Bill of Exception is signed with the following qualifications.

In overruling the objections to the testimony, the Court stated to the jury as follows:

"I will admit the testimony as to the defendant, Effice Hoke. At the same time I will tell the jury now, that testimony of any transaction had by this or any of the other witnesses with Effice Hoke when the defendant, Economides, was not present, would only be evidence against Effice Hoke, unless the jury should find from the evidence in the case, taken as a whole, that both defendants, Economides and Effice Hoke, were engaged in the commission of the offense charged in the Bill of Exception. If the jury should find that there was an agreement between Effice Hoke and Economides to commit the offense charged, then statements made by either of them in pursuance of the common design would be evidence

against both of them up to the time of the consummation of the offense charged in the bill of exception, and statements made by either of the defendants after the completion of the offense charged, would only be evidence against the one making the statement.

"In addition to that, the Court will endeavor to give the jury the proper ruling in the charge.

"I will admit it against the defendant, Effie Hoke, and it will not be considered as testimony against the defendant, Economides.

The Court further controlled the admission of this testimony by the following language in his general charge:

"During the progress of this trial, the Government has been permitted to show certain acts and declarations made by the defendant. Effie Hoke, some of them outside the presence of the defendant, Economides, and, therefore, it becomes necessary for the Court to inform you as to the legal effect of those acts and declarations of the defendant, Effic Hoke, in so far as the defendant, Basile Economides, is concerned, and the Court, therefore, tells you, in this connection that the acts and declarations of the defendant, Effic Hoke, outside of the presence and hearing of the defendant, Basile Economides, must be considered by the jury only against the defendant, Effie Hoke, and they will not be considered against the defendant, Basile Economides, unless the jury find beyond a reasonable doubt from the evidence, that there was an agreement or common purpose between the two defendants to commit the offense charged in the bill of indict-But if you believe from the evidence beyond a ment. reasonable doubt that there was an agreement or common understanding between the two defendants to commit the offense charged in the bill of indictment, then I inform you, as a matter of law that the act of one becomes the act of both when done in pursuance of the common design. In such case it is the act of the person who did it by perpetration and becomes that act of the other by adoption, provided the jury believes that there was a common purpose and design to commit the of-In this connection I further charge you that any act or declaration of the defendant, Effie Hoke, made after the girls, Annette, Florence and Gertrude left the City of New Orleans would not be evidence against the

defendant, Basile Economides, but the Jury may consider it as evidence against the defendant, Effie Hoke. In other words, if you believe there was a design and conspiracy between the two defendants to commit the offense charged, then the act of one becomes the act of the other when performed in pursuance of the common design, but it must have been done during the conspiracy. After the conspiracy, if you believe there was such, has terminated, then the act is only evidence against the one who does it, and is not evidence against the other."

## GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effic Hoke and Basile Economides. Bill of Exceptions No. 4. Filed May 23, 1911. J. R. Blades, Clerk.

## BILL OF EXCEPTIONS No. 5.

Filed May 23, 1911.

In the United States District Court for the Eastern District of Texas, at Beaumont.

The United States

versus

D. L. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that on the trial of the above entitled and numbered cause in this court, on the 8th day of April, and at the April Term A. D. 1911 thereof, the Hon. Gordon Russell, Judge, presiding, the following proceedings were had:

That after a jury had been sworn and impaneled in said cause, and while the witness Ouida Landry, a witness called on behalf of the United States, was being cross examined by the defendants through their counsel, the defendants then and there sought to prove by said witness by divers and sundry questions, that she, the witness, in the city of New Orleans and prior to coming

to Beaumont, was engaged in the business of a common prostitute, and had been so engaged for several years before coming to Beaumont, Texas, and in this connection, defendants and each of them proposed to ask said witness Ouida Landry, if it were not a fact that prior to her coming to Texas that in the city of New Orleans, La., she followed the business of a common prostitute and street walker: that she was an inmate of the house of prostitution kept by Pauline Wilson in the city of New Orleans, and there followed the business of a common prostitute: that also in the city of New Orleans and prior to coming to Beaumont in November, 1910, she the witness was an inmate of a house of prostitution kept by a woman named Anna, and, also that in said city of New Orleans and prior to coming to Texas in November. 1910, she the said witness was at one time an inmate of a house of prostitution kept by a woman named May Derby, and also if she, the witness, did not frequent the passenger depots in the city of New Orleans prior to coming to Texas, and there solicit men to engage in acts of illicit intercourse with her for hire.

And the Court, on its own motion, and without objection on the part of the United States District Attorney, then and there refused to permit defendants to ask the witness such questions, or any question calculated to elicit, or for the purpose of eliciting any facts showing, or tending to show that the said witness Ouida Landry was a common prostitute in New Orleans, La., prior to coming to Beaumont in November 1910, and the Court refused to permit said testimony to go before the jury for any purpose.

If the Court had permitted such questions to have been asked of, and answered by the witness, it is expected by the defendants that she would have answered to the effect that in the City of New Orleans prior to November, 1910, she was a common or public prostitute: that she was at different times, an inmate of the houses of prostitution kept by Pauline Wilson, May Derby and a woman named Anna: that she was a "street walker," and frequented the passenger depots in New Orleans for the purpose of, and did there solicit men to engage in acts of illicit intercourse with her for hire.

Such testimony was offered by defendants for the purpose of circumstantially proving, or tending to prove (1) that Gertrude Baden, Annette Baden and Florence Baden, alias Hays (who it is alleged were persuaded by defendants to travel from New Orleans to Beaumont for the purpose of engaging in prostitution in Beaumont). were public or common prostitues in New Orleans, prior to coming to Beaumont, Texas, at the time alleged in the indictment, it having been admitted by the said Baden (alias Hays) girls that they and the said Ouida Landry were friends and associates in the said city of New Orleans prior to their coming to Beaumont, Texas, in November, 1910, and that at and before such time they knew Ouida Landry was in Beaumont, Texas; (2) that said Baden (alias Hays) girls were not persuaded or coerced to take said interstate journey by reason of any persuasion, but that they took said journey of their own free wills and accord.

And the Court having refused to permit said questions to be asked of, or answered by the witnesses, and having refused to allow the answers to go before the jury, the defendants then and there duly excepted to the action and ruling of the Court in such refusal and now here tender this their bill of exception No. 5 and pray that the same be allowed, signed by the Court in attestation of its correctness, and ordered filed by the Clerk as a part of the record in this cause, which is accordingly done this 23rd day of May, 1911, with the following qualification:

The witness had already admitted on the witness stand that since she came to Beaumont she had been leading the life of a common public prostitute and that she was now living the life of a public prostitute. The Court allowed that statement of the witness' life to enable the jury to determine her credibility. The Court was of the opinion that the questions propounded tended to elicit particulars of the witness' life which were not material as to her credibility, after she admitted that she was a public prostitute at the time of the trial and had been since she came to Beaumont. The Court stated to counsel for defendants at the time that they would be permitted to prove by this witness or by any other witness that the Baden girls mentioned in the bill of indictment were prostitutes before they came to Beaumont but excluded the questions above set out for the reasons herein stated.

## GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effic Hoke and Basile Economides. Bill of Exceptions No. 5. Filed May 23, 1911. J. R. Blades, Clerk.

# BILL OF EXCEPTIONS No. 6. Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

The United States

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that on the trial of the above entitled and numbered cause in this court, on the 7th day of April and at the April Term A. D. 1911 thereof, the Hon. Gordon Russell, Judge, presiding, the following proceedings were had:

That while the witness Florence Baden, alias Florence Hays, a witness called by the United States, was on the witness stand and testifying, the said witness being one of the persons who the defendants are charged with having persuaded to take an interstate journey from New Orleans, La., to Beaumont, Texas, for immoral purposes, and while the said witness was being cross-examined by the attorney for the defendants the following question was propounded to said witness:

Q. Is it not a fact that upon your arrival in Beaumont you were treated by a Beaumont physician for a venereal disease?

Which question was objected to by the United States District Attorney on the ground that it was immaterial, in view of the fact that the witness did not claim to be a virtuous girl while in New Orleans, and the Court having sustained said objection, and refused to allow the said witness to answer, the defendants then and there duly excepted to the action and ruling of the Court in refusing to permit said question to be answered by the witness. and if permitted, the defendants expected the witness to answer, and she would have answered that she was treated for a venereal disease which she contracted in New Orleans, after her arrival in Beaumont. And the defendants claimed that her answer was material and admissible as shedding light upon, and as tending to prove, defendants' contention that the witness was a public prostitute in New Orleans before she came to Beaumont. Texas, and as shedding light upon the fact whether she came to Beaumont of her own free will, or whether she was coerced and persuaded to come, and as tending to prove defendants' contention that she was not persuaded or coerced, but came to Beaumont of her own free will. and that said facts were such facts as the jury might deduct therefrom that she probably did come to Beaumont of her own free will, and as tending to rebut the Government's contention that she was persuaded to come.

And the defendants here now tender this their bill of exception No. 6, and pray that the same be allowed and signed by the Court and filed by the Clerk as a part of the record in this cause, which is accordingly done this the 23rd day of May, 1911.

### GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effie Hoke and Basile Economides. Bill of Exceptions No. 6. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 7.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

The United States

versus

Cr. No. 167

Effie Hoke and Basile Economides.

Be it remembered, that on the trial of the above entitled and numbered cause in this court, on the 7th day of April and at the April Term, 1911, thereof, the Hon. Gordon Russell, Judge, presiding, the following proceedings were had, to-wit:

A jury was impaneled and sworn according to law, and the United States District Attorney, appearing for the United States, thereupon called as a witness for the United States, Gertrude Baden, alias Gertrude Hays, and thereupon the Court permitted said witness to testify, on her direct examination, and in reply to questions propounded to her by the United States District Attorney, over the objections of the defendants, and each of them, to the following effect:

"After we arrived in Beaumont, and when we would get out of debt to Effie Hoke, she would buy clothes and say we owed that much more, and then she would tell us we would have to stay there (meaning at her house) until we paid her, and I had to follow the life of a common prostitute because I could not do otherwise."

To all of which testimony, and the questions in reply to which it was given, and before the answers were given as above set out, the defendants and each of them then and there duly objected, on the ground:

(1)

That it was and is immaterial, incompetent and irrelevant to any issue in the case, beyond the mere fact that after the Baden girls arrived in Beaumont they followed the business of prostitution, which these defendants admitted and offered to admit.

(2)

That said testimony going further than establishing the mere fact that they followed prostitution after their arrival in Beaumont, and proving, as it does in fact prove. that the defendant Effie Hoke enslaved them to a life of shame and degradation in a house of public prostitution in the City of Beaumont, and against their wills, by the ways and means stated, not only becomes irrelevant, but highly inflammatory, and was and is calculated to arouse the passions of the jury against these defendants, and was and is calculated to cause the jury to convict these defendants on the charge of persuading the said girls to leave New Orleans and come to Beaumont for the purpose of prostitution, more for the reason that the defendant Effie Hoke enslaved them against their wills, by devious ways and means, in a house of public prostitution. after their arrival in Beaumont, than for persuading them to leave New Orleans, and would likely cause the jury to convict on the charge stated in the indictment upon less evidence of the specific charge than otherwise: and that the admission of said prejudicial evidence was a gratuitous invasion of the rights of these defendants, and that as to the defendant Economides, in addition to the objections herein urged, the same was and is hearsay.

The Court having overruled the said objections, and having permitted said testimony as set out herein to go before the jury, and to be considered by them as part of the evidence, these defendants then and there duly excepted to said action and ruling of the Court, and here now tender this their bill of exceptions No. 7, and pray that the same be allowed and signed by the Court in attestation of its correctness, and ordered filed by the Clerk as part of the record in this cause, which is accordingly done this the 23rd day of May, 1911, with the same explanation as is contained in the qualification to bill of exceptions No. 4 (four).

## GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effie Hoke and Basile Economides. Bill of Exceptions No. 7. Filed May 23, 1911. J. R. Blades, Clerk.

## BILL OF EXCEPTIONS No. 8.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

The United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered, that on the trial of the above entitled and numbered cause, in this court, on the 7th day of April and at the April Term, 1911, thereof, the Hon. Gordon Russell, Judge, presiding, the following proceedings were had:

A jury was impaneled and sworn according to law, and at the conclusion of the case of the United States in chief, and after the Government had rested, the defendants then and there tendered as a witness in their behalf Dr. J. H. Reagan, a practicing physician and surgeon residing in the City of Beaumont, Texas, and by the said witness the defendants then and there offered to prove that in the month of November, 1910, and within a day or so after the arrival in Beaumont of the witness Florence Baden, alias Florence Hays, being one of the persons defendants are charged with having persuaded to take an interstate journey from New Orleans, La., to Beaumont, Texas, for an immoral purpose, she, the said Florence Baden applied to the said witness Dr. J. H. Reagan for treatment, and he did then and there treat the said Florence Baden for a venereal disease, which she, the said Florence Baden, had theretofore contracted in the City of New Orleans, La.

And the Court then and there refused to permit the defendants to place the said witness Dr. J. H. Reagan upon the witness stand, and refused to permit defendants' counsel to propound to the said witness questions to elicit said information, and refused to permit the said witness to testify to the fact that he did treat Florence Baden, alias Florence Hays, for a venereal disease contracted in New Orleans, after her arrival in Beaumont, Texas, and if permitted to do so the witness Reagan would have testified that he did treat Florence Baden, alias Hays, for a veneral disease contracted in New Orleans, La.

To which action and ruling of the Court in refusing to permit the defendants to prove by said witness what is hereinbefore set out, the defendants then and there duly excepted, and then and there claimed that it was admissible and offered for the purpose of contradicting the witness Florence Baden, alias Florence Hays, and for the purpose of proving and tending to prove that she was a public prostitute in the City of New Orleans prior to coming to Beaumont, Texas, and as shedding light upon the probability that the said Florence Baden came to Beau-

mont, Texas, of her own free will and accord; and the defendants here now tender this their bill of exceptions No. 8, and pray that the same be allowed, signed by the Judge and filed by the Clerk as part of the record in this case, which is accordingly done this 23rd day of May, 1911.

#### GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effie Hoke and Basile Economides. Bill of Exceptions No. 8. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 9.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

The United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered, that on the trial of the above entitled and numbered cause in this court, on the 7th day of April and at the April Term, 1911, thereof, the Hon. Gordon Russell, Judge, presiding, the following proceedings were had, to-wit:

A jury was impaneled and sworn according to law, and the United States District Attorney, appearing for the United States, thereupon called as a witness for the United States, Florence Baden, alias Florence Hays, being one of the persons the defendants are charged in the indictment with having persuaded to take an interstate journey from New Orleans, La., to Beaumont, Texas, for an immoral purpose, and thereupon the Court permitted said witness to testify, on her direct examination, and in

reply to questions propounded by the United States District Attorney, over the objection of the defendants, to the following:

"I stayed in Effie Hoke's house, in Beaumont, about two weeks after I arrived in Beaumont. I left her house one morning about 5 o'clock. I wanted to leave, and Miss Effie had said if we tried to get out she would kill us, so I got out that morning while she was asleep. We wanted to go to Houston, but did not get our clothes, so we could not go. We went down to some hotel down here (meaning Beaumont), started to go, and a policeman would not let us go. A fellow named Teddy arrested us. He took us to the hotel and then down to the jail at the Court House. That all occurred right after we left, as soon as we got upon the main street; it occurred about in a halfhour after we left. The man who arrested us was a policeman; he had a uniform on; there were two policemen that arrested us; one was called Teddy; I don't know the other's name. Then we stayed down at the jail about an hour. When we got out of jail we went to the depot; then we tried to get our things and did not get them, and then we went to the Jefferson Hotel, and we were arrested again by two policemen, whose names I do not know."

To all of which testimony and the questions in reply to which it was given, and before the answers were given as above set out, the defendants then and there duly objected on the ground:

(1)

That it was and is immaterial, incompetent and irrelevant to any issue in the case, beyond the mere fact that after the Baden girls arrived in Beaumont they followed the business of prostitution, which these defendants admitted and offered to admit, and to the proof of which they did not object.

(2)

That said testimony, going further than establishing the mere fact that they followed prostitution after their arrival in Beaumont, and proving, as it does in fact prove, that the defendant Effie Hoke enslaved them to a life of shame and degradation in a house of public prostitution. in the City of Beaumont, against their will, is not only irrelevant and immaterial, but is highly prejudicial to the rights of these defendants, and was and is calculated to arouse the passions of the jury against the defendants, and to cause the jury to convict the defendants on the charge of persuading said girls to leave New Orleans and go to Beaumont for an immoral purpose, more for the reason that the defendant Effie Hoke enslaved them in a house of prostitution in Beaumont, after their arrival. against their wills, than for persuading them to leave New Orleans, and would likely cause the jury to convict upon the charge stated in the indictment, upon less evidence of the specific charge than otherwise: and that the admission of such evidence is a gratuitous invasion of the rights of the defendant.

(3)

That said testimony is hearsay, especially as to the defendant Economides, who was in New Orleans at the time of the transaction spoken of; and

(4)

Because said testimony is a recital by the witness of what took place after the commission of the offense with which the defendant is charged,

(5)

Because the said testimony of the witness as herein set out, if it constitutes any offense, is one against the laws of Texas and not the laws of the United States.

(6)

Because the allegations in the indictment against the defendants in this case do not put the defendants upon notice that such testimony as herein set out and objected to would be offered against them, and affords them no opportunity to rebut it.

(7)

Because the proof of the matters and things set out herein concerning which said witness testified, was and is not necessary to sustain the Government's case as charged in the indictment, and the only purpose which it could serve is to arouse the passions of the jury against the defendants, and to so blind them with prejudice that they cannot and would not give them a fair and impartial trial on the specific charge laid in the indictment.

And the Court having overruled said objections and all of them, and having permitted said testimony as herein set out to go before the jury, to be by them considered as part of the evidence in the case, the defendants then and there duly excepted to said action and ruling of the Court, and here now tender this their bill of exceptions No. 9, and pray that the same be allowed, signed by the Court and filed by the Clerk of the court as a part of the record in this cause, which is accordingly done this 23rd day of May, 1911, with the qualification that the jury were instructed that the evidence complained of could not be considered against the defendant Economides, but only against the defendant Effie Hoke. Annette Baden had testified over defendants' objection that after she and Florence were arrested that she asked defendant Effie Hoke over the telephone if she (Effie) had procured their arrest, and Effic replied that she had, and subsequently in the trial the defendant Effie Hoke said she had made complaint against them for vagrancy, but that they were not arrested on that complaint.

## GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. United States vs. Effie Hoke and Basile Economides. Bill of Exceptions No. 9. Filed May 23, 1911.

J. B. Blades, Clerk.

## BILL OF EXCEPTIONS No. 10.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

The United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered, that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested charge No. ...., to-wit:

Gentlemen of the Jury:

The count in the indictment in which it is charged that the defendants induced Gertrude Hays, or furnished transportation for her to come to Beaumont, is hereby withdrawn from your consideration, it appearing from Gertrude Hays' own evidence that she came to Beaumont, not by reason of any persuasion on the part of either of these defendants."

Which charge the Court refused, and the defendants then and there excepted to such ruling of the Court, and now here present their bill of exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23rd day of May, A. D. 1911, with the attached explanation and qualification.

# GORDON RUSSELL, Judge.

On the subject covered by the above special charge requested by the defendants, the Court in his general charge to the jury instructed them as follows:

"With reference to the third count in the bill of indictment, if the jury find from the evidence that the witness Florence Baden, alias Florence Hays, persuaded her sister Gertrude to come to Beaumont, but you believe from the evidence beyond a reasonable doubt that in so doing she acted for the defendants and at their request, then I inform you, as a matter of law, that the act of Florence in trying to persuade, induce or entice her sister Gertrude to make the interstate journey would be the act and statement of the defendants or the one of them who requested her to see and persuade Gertrude, and the defendants, or the one of them who made the request, if after being made Florence acted upon it, would be liable and bound by the persuasion, inducement or enticement that Florence offered to Gertrude. But the Court tells you, furthermore that if Gertrude came of her own accord, or through the persuasion of her sister Florence, and you do not find that Florence in so persuading her was acting for the defendants, then the defendants cannot be convicted on Count 3, and it would be the duty of the jury to a quit them upon that count if you find that to be true." And again:

"If the jury find from the evidence beyond a reasonable doubt that Effie Hoke, on the 14th day of November, 1910, in the City of New Orleans, in the State of Louisiana, did knowingly persuade, induce and entice Gertrude Baden, alias Gertrude Hays, to go from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, in interstate commerce for the purpose of prostitution; and if you further find from the evidence beyond a reasonable doubt that the said Gertrude Baden, alias Gertrude Hays, was then and there under the age of 18 years, and that the said Effie Hoke did then and there, by such persuasion, inducement and enticement, knowingly cause the said Gertrude Baden. alias Gertrude Hays, to go and be carried and transported as a passenger upon the line or route of a common carrier engaged in interstate commerce between the City of New Orleans, in the State of Louisiana, and the City of

Beaumont, in the State of Texas, with the intent and purpose of her, the said Effie Hoke, that the said Gertrude Baden, alias Gertrude Hays, should engage in the practice of prostitution in the City of Beaumont, in the State of Texas; and if you further find from the evidence bevond a reasonable doubt that the said Gertrude Baden, alias Gertrude Hays, by reason of being so persuaded, induced and enticed. did then and there go and was transported in interstate commerce over the line or route of a common carrier from the City of New Oreans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, and thereafter upon arriving in the City of Beaumont engaged in the practice of prostitution by virtue of such persuasion, inducement and enticement by the said Effie Hoke, then you will find for the defendant, Effie Hoke, guilty under Count No. 3 of this bill of indictment.

"And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans, and State of Louisiana, on the date alleged in the bill of indictment, did knowingly aid and assist the said Effie Hoke to so persuade, induce and entice the said Gertrude Baden, alias Gertrude Hays, to come in interstate commerce from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent then and there upon the part of him, the said Basile Economides, that the said Gertrude Baden, alias Gertrude Hays, should engage in the practice of prostitution in the City of Beaumont, then you will find the defendant, Basile Economides, guilty under the third count in this bill of indictment."

# GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. 167. The United States vs. Effic Hoke et al. Bill of Exceptions No. 10. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 11.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

#### United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered, that after the evidence had closed and before the Court had charged the jury in the above case, and before the arguments began, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge No. ....., to-wit:

"Gentlemen of the Jury:

"You are instructed that you cannot convict the defendant Economides for keeping a wine room in New Orleans, nor for any act he did, nor for any character of business he may have engaged in, and you are further instructed that you cannot consider such evidence except for the purpose of showing the situation of the parties. and shedding light on the specific acts charged in the indictment herein, if in your opinion it does shed light upon the same; in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Economides did the acts charged in the indictments, then you will acquit the defendant, notwithstanding you may disapprove of the business in which he is engaged in the City of New Orleans; and I further instruct you that you will not allow the fact that defendant is the keeper of a wine room, frequented by public women or prostitutes. in any way influence you in passing upon the defendant's guilt or innocence, except as herein charged.

"And I further charge you that you cannot convict the defendant Effie Hoke for keeping a bawdy house in Beau-

mont, nor can you convict her for attempting to have the girls arrested for taking their clothes away without first paying the debt due to defendant, nor can you convict defendant Effie Hoke for any act or thing she did or may have done in Beaumont, Texas: and you are further instructed that you cannot consider such evidence except for the purpose of showing the situation of the parties. and shedding light on the specific acts charged in the indictment herein, if in your opinion it does shed light upon the same: in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Effie Hoke did the acts charged in the indictment, then you will acquit the defendant notwithstanding you may disapprove of the business in which she is or was engaged in Beaumont: and I further instruct you that you will not allow the fact that defendant. Effie Hoke was the keeper of a bawdy house, in any way, influence you in passing upon the defendants guilt or innocence, except as herein charged."

Which charge the Court refused to give to the jury as requested by defendants, and refused and omitted to embody in its main charge to the jury, and the defendants then and there excepted to such ruling and action of the Court in refusing to give such special embody therein suggested by defendants, and in refusing to embody therein suggested in its main charge, it having been testified in said case that defendant Economides was the keeper of a wine room in New Orleans and that the defendant Effie Hoke was the keeper of a bawdy house in Beaumont, and that she had and attempted to have the said girls arrested. Allowed this May 23, 1911.

GORDON RUSSELL,

Judge.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke, et al. Bill of Exceptions No. 11. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 12.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendant, Basile Economides, through his attorneys, presented the following requested special charge No. 3, to-wit:

"Gentlemen of the Jury:

"You will not consider against the defendant Basile Economides any evidence in the case concerning what took place after the three girls named in the indictment arrived in Beaumont, Texas."

Which charge the Court refused and the defendant then and there excepted to such ruling of the Court, and now here presents his Bill of Exception thereto, and prays that the same be approved and ordered incorporporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911, with the explanation and qualification attached.

GORDON RUSSELL,

Judge.

On the subject covered by the above Special Charge requested by the defendants, the court in his general charge to the Jury instructed them as follows:

"During the progress of this trial the Government has been permitted to show certain acts and declarations made by the defendant, Effie Hoke, some of them outside the presence of the defendant, Economides, and, therefore, it becomes necessary for the court to inform

you as to the legal effect of those acts and declarations of the defendant, Effie Hoke, insofar as the defendant, Basile Economides is concerned; and the court, thereou, in this connection, that the acts and declarations of the defendant, Effie Hoke, outside of the presence and hearing of the defendant, Basile Economides, must be considered by the jury only against the defendant, Effie Hoke, and they will not be evidence against the defendant, Basile Economides, unless the jury finds beyond a reasonable doubt from the evidence that there was an agreement or common purpose between the two defendants to commit the offense charged in the bill of indictment. But if you believe from the evidence beyond a reasonable doubt that there was an agreement or common understanding between the two defendants to commit the offense charged in the bill of indictment, then I inform you, as a matter of law, that the act of one becomes the act of both when done in pursuance of the common design. In such case it is the act of the person who did it by perpetration and becomes the act of the other by adoption, provided the jury believes that there was a common purpose and design to commit the offense.

In this connection, I further charge you that any act or declaration of the defendant, Effie Hoke, made after the girls Annette, Florence and Gertrude left the City of New Orleans would not be evidence against the defendant, Basile Economides, but the jury may consider it as evidence against the defendant, Effie Hoke. In other words, if you believe there was a design and conspiracy between the two defendants to commit the offense charged, then the act of one becomes the act of the other when performed in pursuance of the common design, but it must have been done during the conspiracy. After the conspiracy, if you believe there was such, has terminated, then the act is only evidence against the one who does it, and is not evidence against the other."

GORDON RUSSELL, Judge.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke, et al. Bill of Exceptions No. 12. Filed May 23, 1911. J. R. Blades, Clerk.

## BILL OF EXCEPTIONS No. 13.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge, No....., to-wit:

"Gentlemen of the Jury:

"If you believe from the evidence that the defendant Effie Hoke persuaded the said girls or either of them to come to Beaumont, and purchased a railroad ticket for them or either of them, or if you believe that she did either of said things, then you will acquit her unless you also further believe that they, the girls, came by reason of such persuasion and in this connection you are also instructed that if they came by reason of their own desire and will to do so, then you will acquit them, even if you should also believe that Effie Hoke persuaded them and furnished a ticket or either persuaded or furnished a ticket.

"And if you believe from the evidence that said girls came by reason of their own will, then you will acquit them even if you should also believe that the defendant Economides persuaded them to come, if you also believe that their coming to Texas was by reason of their own desires to come and not by reason of such persuasion."

Which charge the Court refused and the defendants then and there excepted to such ruling of the Court, and now here present their Bill of Exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911.

GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke, et al. Bill of Exceptions No. 13. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 15.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States
versus
Cr. No. 167.
Effie Hoke and
Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge, No....., to-wit:

"Gentlemen of the Jury:

"As the Act under which this indictment is drawn does not prohibit or forbid any woman or girl to travel from one State into another for the purpose of there engaging in prostitution or debauchery or other immoral purpose, her act in so traveling is lawful regardless of her intention, and under the Constitution of the United States, Congress cannot make a crime of one aiding or assisting, or persuading or prevailing on her to take such journey, for the purpose of having her engage in prostitution or debauchery or other immoral purpose.

"You will, therefore, acquit the defendants."

Which charge the Court refused and the defendants then and there excepted to such ruling of the Court, and now here present their Bill of Exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911.

GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economies. Bill of Exceptions No. 15. Filed May 23, 1911. J. R. Blades, Clerk.

# BILL OF EXCEPTIONS No. 16.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be is remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge, No......, to-wit:

"Gentlemen of the Jury:

"Unless you believe from the evidence beyond a reasonable doubt that the defendants knowingly and feloniously persuaded, induced, coerced, or caused to be persuaded, enticed, coerced, or assisted in persuading, inducing, enticing, or coercing, the said girls or either of them; and unless you further believe from the evidence beyond a reasonable doubt that such persuasion, inducing, enticing, or coercing was the cause of their going from New Orleans to Beaumont for immoral purposes, and unless you further believe from the evidence beyond a reasonable doubt that defendants procured a ticket or

tickets or caused the same to be procured, and that the procuring of such ticket and the furnishing of the money therefor, was for the purpose of inducing them to go to Beaumont for immoral purposes, then you must acquit the defendants."

Which charge the Court refused and the defendants then and there excepted to such ruling of the Court, and now here present their Bill of Exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911. Allowed with the explanation and qualification attached hereto.

GORDON RUSSELL, Judge Presiding.

On the subject covered by the above special charge requested by the defendants, the court in his general charge to the jury instructed them as follows:

"The jury will observe from the reading of the two sections I have given you that one of the salient features of distinction between Section Three and Section Four is that in the last section an element of the case which the Government must prove is that the girl must be under the age of eighteen years. Under Section Three the age of the girl is immaterial, and this section applies to counts one and two of the bill of indictment. Under Section Four under which the third count of the indictment was framed, the Government must prove that the girl who was so induced to make the interstate journey for the purpose of prostitution was at that time under the age of eighteen years, so in this bill of indictment count three, which charges that the girl Gertrude Baden, alias Gertrude Hays, was induced, enticed and persuaded by the defendants to make the journey described in the bill of indictment was at that time under the age of eighteen years, and that fact must be proven by the Government as an element of the case necessary to a verdict of conviction.

In explanation of the meaning of the term "interstate commerce" the first section of the Act from which I have read sections three and four defines briefly, simply and clearly what Congress means by "interstate commerce."

It says:

"That the term 'interstate commerce' as used in this Act shall include transportation from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia."

"The Act further defines foreign commerce, but that part of the Act is not necessary to be given you in charge. So that interstate commerce means the transportation

of a person from one State to another State.

"Now, in order to assist the jury in understanding the matter, and in applying the facts of the case to the law given you in charge, the court desires to briefly summarize the necessary elements of the case as applied to each count in the bill of indictment and each section of

the law as I have read it to the jury.

"Under section three, and I observe again that that section makes the age of the woman immaterial, in order to constitute the offense, the following elements must concur: That the defendants knowingly persuaded, induced or enticed, or aided or assisted in persuading, inducing or enticing a woman or girl to come from one place to another place in interstate commerce for the purpose of prostitution, or with the intent and purpose on the part of the defendants that such woman or girl shall engage in the practice of prostitution. far as this element of the offense is concerned, it is immaterial whether the girl after being so persuaded engaged in the practice of prostitution with or without her Another necessary element of the offense under section three is that the defendants by such persuasion, inducement or enticement knowingly caused, or aided or assisted in causing such woman or girl to come and be carried as a passenger upon the line of any common carrier engaged in interstate commerce. Those are the necessary elements which the Government must prove beyond reasonable doubt before you would be authorized to convict under the first two counts mentioned in the bill of indictment, which two counts were drawn under Section Three of the Act which I read to you a moment ago.

"The necessary elements which the Government must show in order to make out an offense under Section Four of the Act, and which is intended to be embraced in the third count of the bill of indictment are, first that the defendants knowingly persuaded, induced or enticed a woman or girl under the age of eighteen years from one State to another State with the purpose and intent, or that she shall be induced or coerced to engage in the practice of prostitution. Second, that the defendants in furtherance of such purpose knowingly induced or caused such woman or girl under the age of eighteen years to go and be carried in interstate commerce as a passenger upon the line of road of any common carrier."

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exception No. 16. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 17.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendant, Basile Economides, through his attorneys, presented the following requested special charge No. One, to-wit:

"Gentlemen of the Jury:

"There is no proof before you that the defendant, Basile Economides, rendered any actual aid or assistance in the transportation of Annette Baden, alias Annette Hays, of Florence Baden, alias Florence Hays, of Gertrude Baden, alias Gertrude Hays, in interstate transportation to Beaumont; and under the Act under which the indictment is returned in this case it is ne-

cessary and devolves upon the Government to prove that he actually rendered such aid and assistance in addition to persuading the said women or girls to go from New Orleans to Beaumont.

"You will, therefore, acquit the said defendant, Basile Economides, regardless of how you may find as to

his co-defendant."

Which charge the Court refused and the defendant then and there excepted to such ruling of the Court, and, now here presents his Bill of Exception thereto, and prays that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D, 1911.

> GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exceptions No. 17. Filed May 23, 1911. J. R. Blades, Clerk.

# BILL OF EXCEPTIONS No. 18.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and

Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge No......, to-wit:

"Now come the defendants in the above entitled and numbered cause, and move the Court to instruct the jury

herein to find a verdict of not guilty for the following reasons, to-wit:

"1st: Because the evidence offered fails to show that the three girls which it is alleged in the indictment were caused to go and be carried and transported as passengers upon the line and route of a common carrier engaged in interstate commerce, were carried and transported over the line of the Texas and New Orleans Railroad Company, as is alleged in the said indictment.

"2nd: Because the proof offered fails to show that the line of railroad of the Texas and New Orleans Railroad, and the line of railroad over which it is alleged in the indictment the said three girls were caused to be carried and transported as passengers from the city of New Orleans in the State of Louisiana to the city of Beaumont, in the State of Texas, extends from the said city of New Orleans in the State of Louisiana to the city of Beaumont in the State of Texas."

Which charge the Court refused and the defendant then and there excepted to such ruling of the Court, and now here present their Bill of Exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911, with the attached explanation and qualification.

GORDON RUSSELL, Judge Presiding.

Refused. The allegation of the indictment being in the following words, to-wit:

"To go and to be carried and transported as a passenger upon the line and route of a common carrier engaged in interstate commerce between the City of New Orleans in the State of Louisiana, and the City of Beaumont in the State of Texas, to-wit: Over the line of the Texas and New Orleans Railroad Company which line of railroad is a part of the Southern Pacific Railway System, and is commonly known as the "Sunset Route," any other name of a more particular description of said common carrier is to the Grand Jurors unknown, and can not here be given."

The testimony on this subject being as follows:

Annette Hays testified: "We took the train at the Union Station in New Orleans. I do not know the name of the road. Theresa Flood bought the tickets. We got on the train at New Orleans about 8:30 and arrived at Beaumont about 8:00 the next morning. We stayed in the same coach on the train from the time we left New Orleans until the time we arrived at Beaumont." (See page 10, Bill of Exception No. 2).

Florence Hays testified: "Theresa Flood bought the tickets at the Union Station at New Orleans. We left New Orleans about 9:15 and stayed on the same car all the way to Beaumont, Texas." (See page 67, Bill of

Exception No. 2).

Theresa Flood testified: "After we left Miss Pauline Wilson's, we went right to the Union Station in New Orleans. I bought the tickets for myself and the girls from New Orleans to Beaumont, Texas. I bought the tickets from the Southern Pacific road. We got right on the train and came from New Orleans to Beaumont, staying in the same car all the way from New Orleans to Beaumont." (See page 151, Bill of Exception No. 2).

On this phase of the case the Judge in his general charge instructed the jury as follows:

"Now, gentlemen the term 'common carrier engaged in interstate commerce' means simply this: That it is a carrier which transports persons or property for hire between one place in one State and another place in another State, and if you believe the carrier which brought these girls from New Orleans, Louisiana, to Beaumont, Texas, was a carrier which transported persons or property for hire, then the court informs you, as a matter of law, that it would be a common carrier engaged in interstate commerce."

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exceptions No. 13. Filed May 23, 1911. J. R. Blades, Clerk.

### BILL OF EXCEPTIONS No. 19.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States.

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendant, Effie Hoke, through her attorneys, presented the following requested special charge No......, to-wit:

"Gentlemen of the Jury:

"I charge you in this case the witness Theresa Flood is an accomplice to the defendant, Effie Hoke, and you cannot convict upon her testimony unless you believe it to be true, and then you cannot convict unless you believe that it is corroborated, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must go further and connect or tend to connect defendant Effie Hoke with its commission."

Which charge the Court refused and the defendant then and there excepted to such ruling of the Court, and now here presents her Bill of Exception thereto, and prays that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911.

> GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exceptions No. 19. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 20.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and

Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendant, Basile Economides, through his attorneys, presented the following requested special charge No. Two, to-wit:

"Gentlemen of the Jury:

"If you believe from the evidence that the defendant Basile Economides did make an appointment with the girls named in the indictment or either of them to meet the defendant Effie Hoke and that they did meet her through his appointment and if you believe that after so meeting her he did advise them to come with her to Beaumont, Texas, but used no other means of persuading them to come and that he did no act toward furnishing them transportation from New Orleans to Beaumont, Texas, that then you should acquit the defendant, Economides."

Which charge the Court refused and the defendant then and there excepted to such ruling of the Court, and now here presents his Bill of Exception thereto, and prays that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911, with the statement that this point was thoroughly presented in the general charge.

GORDON RUSSELL, Judge Presiding. The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effie Hoke & Basile Economides. Bill of Exceptions No. 20. Filed May 23, 1911. J. R. Blades, Clerk.

# BILL OF EXCEPTIONS No. 21.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and

Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge No......, to-wit:

"Gentlemen of the Jury:

"If you believe that the defendants or either of them furnished a ticket or tickets or the means to procure the same for said girls from New Orleans to Beaumont, and although the defendants knew that the purpose of said girls in coming to Beaumont was an immoral one, yet if you believe that said girls came to Beaumont of their own will, and not by means of being persuaded, enticed, induced, or coerced against their wills, you will acquit the defendants."

Which charge the Court refused and the defendants then and there excepted to such ruling of the Court, and now here present their Bill of Exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911. The point was fully covered in the general charge.

GORDON RUSSELL, Judge Presiding. The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exception No. 21. Filed May 23, 1911. J. R. Blades, Clerk.

#### BILL OF EXCEPTIONS No. 22.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge No....., to-wit:

"Gentlemen of the Jury:

"If you believe that the three girls or either of them came to Beaumont for an immoral purpose, but that they did so of their own will, and in obedience to their own desires, you must acquit the defendants."

Which charge the Court refused and the defendants then and there excepted to such ruling of the Court, and now here present their Bill of Exception thereto, and pray that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911. Allowed with the explanation and qualification attached hereto.

GORDON RUSSELL, Judge Presiding.

On the subject covered by the above special charge requested by the defendants, the court in his general charge to the jury instructed them as follows:

"In this connection, the court further tells you that if you believe from the evidence that the girls came to Beaumont because of their own will and desire to do so, and not on account of being persuaded, induced or enticed to come, then, in such case, neither of the defendants would be guilty under any of the counts in the bill of indictment. But the court tells you, in this connection, that it was not necessary that they should have been forced or coerced to come in order to render the defendants guilty under this bill of indictment. If their consent to come was secured by the defendants either persuading, inducing or enticing them to come, that would be sufficient under the law, even though they may have thereafter willingly come. It is for the jury to determine from all the facts whether the three girls named in the bill of indictment came from New Orleans to Beaumont of their own free will, and in obedience to their own wishes, or whether they were persuaded, induced or enticed to come by the defendants. If they came of their own free will and accord, without being persuaded, induced or enticed to come, then neither of the defendants would be guilty. But, though they came voluntarily, if their volition was obtained by the persuasion, inducement or enticement described in the bill of indictment. then the defendants would be guilty."

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exception No. 22. Filed May 23, 1911. J. R. Blades, Clerk.

# BILL OF EXCEPTIONS No. 23. Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had been closed and before the argument began on the trial of this

case the defendants filed and presented to the Court their joint motion to instruct a verdict of acquittal herein as follows, to-wit:

"In the District Court of the United States for the Eastern District of Texas.

> "United States versus

Cr. No. 167.

Effie Hoke and Basile Economides.

"Now come the defendants and move the court to instruct a verdict of acquittal for the defendants on the following grounds:

#### "First.

"Because under the so-called White Slave Act of June 25th 1910, no offense against the law is charged in that the Act does not define the words 'prostitution,' 'debauchery,' or 'other immoral purpose' which constitute the gravamen of the alleged criminal acts, in that the word 'prostitution' is broad enough to cover every act of lewdness or sexual dissoluteness on the part of either man or woman, and the word 'debauchery' is equally as broad in its significance, whereas the words 'or other immoral purpose' are broad enough to embrace any transgression of law, moral, divine or statutory, and thereby and therein the indictments in these cases are insufficient for the Court to predicate its charge to the jury upon or to impart to these defendants notice of any specific act of 'prostitution,' 'debauchery,' or 'or other immoral purpose,' they are charged with the intention of having the alleged females to commit.

# "Second.

"Because the Act is unconstitutional on the grounds set forth in the motions to quash the indictments.

## "Third.

"Because the indictments are insufficient to charge any offense as set forth in the demurrers thereto.

#### Fourth.

"Because the title of the Act in being named "The 'White Slave Act' is misleading and tends to entrap citi-

zens into a misapprehension of its terms in this: (1) Because 'prostitution,' 'debauchery,' or 'other immoral purpose' within themselves do not constitute any act or fact of slavery; (2) Because the Act is in its terms broad enough to embrace all women of all races.

GREER & NALL,
T. H. BOWERS, AND
CHANDLER C. LUZENBERG,
Attorneys for Defendant,
Basile Economides.

BLAIN & HOWTH, Attorneys for Defendant, Effie Hoke.

"Indorsements. Cr. No. 167. United States vs. Effie Hoke and Basile Economides. Defendants' joint motion to instruct a verdict of acquittal. Filed April 10, 1911. J. R. Blades, Clerk."

And the Court after hearing said motion and the argument of counsel thereon because it was and is the opinion of the court that said motion was not well taken the court overruled and refused the same. To which ruling of the Court the defendants in open court duly excepted and now here in open court present this their bill of exceptions to such ruling of the Court and pray that the same be approved, filed, and ordered incorporated in the record herein.

GREER & NALL, BLAIN & HOWTH, Attorneys for the Defendants.

Presented in open court and duly approved and ordered filed and incorporated in the record herein this the 23rd day of April, A. D. 1911.

GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effie Hoke & Basile Economides. Bill of Exceptions No. 23. Filed May 23, 1911. J. R. Blades, Clerk.

### BILL OF EXCEPTIONS No. 24.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the Jury in the above case and before the arguments began, the defendant, Effie Hoke, through her attorneys, presented the following requested special charge No......, to-wit:

"Gentlemen of the Jury:

"All the testimony introduced by the Government in this case for the purpose of showing, or tending to show that subsequent to the arrival of the three girls in question in the city of Beaumont that Effie Hoke did, for the purpose of detaining them in her house, purchase clothing and other articles not needed or desired by them, and thereby kept them in her debt, is hereby withdrawn from you and you will not consider said testimony or any part thereof for any purpose whatever."

Which charge the Court refused to give in its main charge, or as requested by defendant, Effie Hoke, and the defendant then and there excepted to such action and ruling of the court, in refusing to give such special charge and in failing to embody in its main charge the matter therein suggested, it having been testified by the witnesses, Gertrude, Annette and Florence Baden, alias Hays, in substance and effect that after their arrival in Beaumont, Texas, that as fast as they got out of debt to Effie Hoke she would buy clothing and other articles not needed or desired by them and charged the same to them, for the purpose of keeping them in debt, and detaining them in her place, and now here presents her Bill of Ex-

ception thereto, and prays that the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23 day of May, A. D., 1911, with the explanation attached hereto.

# GORDON RUSSELL, Judge Presiding.

On the subject covered by the above special charge requested by the defendants, the court in his general charge to the jury instructed them as follows:

"During the progress of this trial the Government has been permitted to show certain acts and declarations made by the defendant, Effie Hoke, some of them outside, the presence of the defendant, Economides, and therefore, it becomes necessary for the court to inform you as to the legal effect of those acts and declarations of the defendant, Effie Hoke, insofar as the defendant, Basile Economides is concerned; and the court, therefore, tells you, in this connection, that the acts and declarations of the defendant, Effie Hoke, outside of the presence and hearing of the defendant, Basile Economides, must be considered by the jury only against the defendant, Effie Hoke, and they will not be evidence against the defendant, Basile Economides, unless the jury finds beyond a reasonable doubt from the evidence that there was an agreement or common purpose between the two defendants to commit the offense charged in the bill of indictment. But if you believe from the evidence beyond a reasonable doubt that there was an agreement or common understanding between the two defendants to commit the offense charged in the bill of indictment. then I inform you, as a matter of law, that the act of one becomes the act of both when done in pursuance of the common design. In such case it is the act of the person who did it by perpetration and becomes the act of the other by adoption, provided the jury believes that there was a common purpose and design to commit the offense.

"In this connection, I further charge you that any act or declaration of the defendant, Effie Hoke, made after the girls Annette, Florence and Gertrude left the City of New Orleans would not be evidence against the defendant, Basile Economides, but the jury may consider it as evidence against the defendant, Effie Hoke. In other words, if you believe there was a design and conspiracy between the two defendants to commit the offense charged, then the act of one becomes the act of the other when performed in pursuance of the common design, but it must have been done during the conspiracy. After the conspiracy, if vou believe there was such, has terminated, then the act is only evidence against the one who does it, and is not evidence against the other."

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exceptions No. 24. Filed May 23, 1911. J. R. Blades, Clerk.

### BILL OF EXCEPTIONS No. 25.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, at Beaumont.

United States.

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

Be it remembered that after the evidence had closed and before the Court had charged the jury in the above case, the defendants, Effie Hoke and Basile Economides, through their attorneys, presented the following requested special charge, No....., to-wit:

"Gentlemen of the Jury:

"You are instructed to acquit the defendants on the following grounds, to-wit: Because the Act under which they are being prosecuted is unconstitutional and void.

### FIRST.

"Because it interferes with the privileges and immunities of the citizens of the several States in this: That the right to travel interstate is a lawful right, which the act does not forbid, and any other citizen has the right

to aid and assist the one making the journey, regardless of the moral or immoral intention of either.

#### SECOND.

"Because the Act does not make prostitution a crime, nor the interstate travel of a prostitute a crime, nor her intention to become a prostitute at the end of her journey a crime, and therefore the motive or intent of another, the defendants in this case, in aiding her to make such interstate journey, does not come within the constitutional grant to Congress to regulate commerce between the States, etc."

Which charge the Court refused and the defendants then and there excepted to such ruling of the Court, and now here present their Bill of Exceptions thereto, and pray the same be approved and ordered incorporated in the record herein, which is accordingly done this the 23rd day of May, A. D. 1911.

> GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit. Cr. No. 167. The United States vs. Effic Hoke & Basile Economides. Bill of Exceptions No. 25. Filed May 23, 1911. J. R. Blades, Clerk.

# ASSIGNMENT OF ERRORS.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, Sitting at Beaumont.

United States

versus

No. 167.

Effie Hoke and Basile Economides.

And now on the ....... day of May, 1911, come Basile Economides and Effie Hoke, the said Basile Economides by his attorneys Hal W. Greer and C. C. Luzenberg and

T. H. Bowers, and the defendant Effie Hoke by her attorneys C. W. Howth and W. R. Blain, and they first say jointly that the sentence and judgment of the court in this cause is erroneous and against the just rights of the said defendants for the following reasons, which are assigned as errors, to-wit:

#### First.

Because the court erred in overruling and refusing the motions to quash the indictment herein on the constitutional grounds therein urged, to-wit:

- 1. Because the act of Congress of June 25th, 1910, commonly designated and known as the "White Slave Act" under which this indictment is drawn is in express wielation of the Constitution of the United States. Art. IV. Sec. 2. in this: That one of the "privileges" of a citizen of a State is to travel into other States, and the "immunity" of protection from arrest in so doing, regardless of the intent or purpose of the traveller to give herself up to "debauchery" or "prostitution" or "for any other immoral purpose" after completing her journey; and another "privilege or immunity" of a citizen is to aid or assist her in obtaining such transportation regardless of her purpose, intent or object; and regardless of his purpose, intent or object in so aiding her, or the pursuit of any occupation, whether moral or immoral, she may have upon the completion of her journey, and regardless of the purpose of the person aiding or assisting her in obtaining such transportation.
- 2. Because among the powers reserved to the States individually is that of forbidding, regulating, or controlling prostitution or the debauchery of their female citizens, and of prescribing any rule or rules governing the morals or immoralities of their female citizens, and the Congress of the United States cannot constitutionally aid, regulate or interfere with any of the powers so reserved to the States individually, by thus indirectly

denouncing as a felony the acts of aiding and assisting one citizen by another, to travel interstate with the purpose, object or intention that the citizens so travelling at the end of the journey should engage in prostitution, or debauchery, or other immoral practice.

- 3. Because the enumerated constitutional power granted to Congress and conferred by the United States Constitution, Art. 1, Sec. 8, subdivision 2, "to regulate commerce \* \* \* among the several States," does not embrace or include the power to regulate the acts after reaching her destination of any citizen who has travelled interstate, in that in any case as soon as the interstate carriage is completed the power to control the passenger ceases as a matter of "commerce among the States."
- 4. Because Congress under its delegated power "to regulate commerce," \* \* \* "among the States," has no power to make the intention or purpose of an interstate traveller, nor of any person aiding or assisting her to procure the transportation upon reaching his or her destination a condition precedent to his right to such interstate transportation, where no treason against the general government or some individual state, is alleged in the indictment.

#### Second.

The court erred in overruling and refusing the demurrers of the defendants to the indictment herein, for the following reasons, to-wit, as shown by said demurrers:

- 1. Because the matters and things set out and charged against them in each and every count thereof, do not constitute an offense against the laws of the United States.
- 2. Because the matters and things in each and every count of said indictment against them, as charged and

set out, do not constitute an offense cognizable in this Honorable Court, in that said matters and things do not come within its powers and jurisdiction.

- 3. That it is not alleged and charged in the first count of said indictment that the said Basile Economides and Effie Hoke did thereby knowingly cause or aid, or assist in causing the said Annette Baden alias Annette Hays to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate commerce.
- 4. That it is not alleged or charged in the second count of said indictment that the said Basile Economides and Effie Hoke, or either of them, did thereby knowingly cause or aid, or assist in causing the said Florence Baden alas Florence Hays, to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate commerce.
- 5. That it is not alleged or charged in the third count of said indictment that said Basile Economides or the said Effie Hoke did, in furtherance of said purpose knowingly induce or cause the said Gertrude Baden, alias Gertrude Hays, a girl under the age of 18 years, to go and be carried or transported as a passenger in interstate commerce.
- 6. That the allegations in said indictment in each and every count thereof, are so vague, general and uncertain as to afford no proper notice to the said defendants to plead and prepare their defense herein.

## Third.

The court erred in refusing to instruct a verdict of acquittal for the defendants, on the following grounds:

1. Because under the so-called White Slave Act of June 25th, 1910, no offense against the law is charged in that the act does not define the words "prostitution," "debauchery," or "or other immoral purpose," which

constitute the gravamen of the alleged criminal acts, in that the word "prostitution" is broad enough to cover every act of lewdness or sexual dissoluteness on the part of either men or women, and the word "debauchery" is equally as broad in its significance, whereas the words "or other immoral purpose" are broad enough to embrace any transgression of law, moral, divine, or statutory, and thereby and therein the indictments in these cases are insufficient for the court to predicate its charge to the jury upon, or to impart to these defendants notice of any specific act of prostitution, debauchery, or other immoral purpose they are charged with the intention of having the alleged females to commit.

- 2. Because the Act is unconstitutional on the grounds set forth in the preceding assignments of error.
- 3. Because the indictments are insufficient to charge any offense as set forth in the demurrers and previous assignments of error hereinabove set forth.
- 4. Because the title of the Act, in being named "The White Slave Act" is misleading, and tends to entrap citizens into a misapprehension of its terms, in this: (1) Because prostitution, debauchery, or other immoral purpose within themselves do not constitute any act or fact of slavery; (2) Because the act in its terms is broad enough to embrace all women of all races, and therein and thereby tends to inflame and create prejudice against the defendants, when applied to the facts in this case.
- 5. Because sexual vice or immorality, in every instance, is a matter of individual volition, and does not, within itself, constitute an act of slavery.
- 6. Because the act not undertaking by either its express or implied terms, to punish a prostitute, or one intending to engage in prostitution, for traveling interstate, it cannot punish one for aiding or assisting an-

other to do that which is not unlawful for such other person to do.

- 7. Because the actual fact of the inter-state journey is not a crime within itself, nor do any of its facts embrace the prohibition against another that would come within any rule of interstate carriage in aiding or assisting one so travelling inter-state.
- 8. Because the so-called White Slave Act does not forbid any woman or girl to travel from one State to another for the purpose of engaging in prostitution, or other immoral purpose, at the end of her journey, therefore, under the Constitution of the United States congress has no power to make a crime of one aiding or assisting or persuading her to take such lawful journey.
- 9. Because it cannot be made a crime for one to assist another to do that which such other has the lawful right to do.
- 10. Because the government failed and omitted to prove that the females, viz: Annette Baden, Florence Baden and Gertrude Baden, alias Hays, or either of them were transported over the line of the Texas and New Orleans Railroad Co. as charged in the indictment; and in that the government failed to prove that the Texas and New Orleans R. R. Co. was a line of railway extending from New Orleans in the State of Louisiana into the State of Texas; and further in that the court will take judicial knowledge of the fact that the Texas and New Orleans Railroad Company is chartered as such under the laws of the State of Texas, having its terminii wholly within the State of Texas, to-wit: the city of Houston, Texas, on the west and the city of Orange, Texas, on the east.
- 11. Because the evidence introduced by the government does not show that the defendants or either of them persuaded, induced, coerced, enticed or assisted in aid-

ing, persuading, inducting, enticing or coercing the witness Gertrude Baden alias Gertrude Hays to go and become a passenger in interstate commerce from the city of New Orleans, La., to Beaumont, Texas, for the purpose of prostitution, or any other purpose (a) because it affirmatively appears from the testimony of Gertrude Baden, alias Hays, herself, that she came to Texas because her sisters were coming, and that she was following in the foootsteps of her sisters, (b) and for the reasons herein set out the court erred in failing and refusing to instruct a verdict of not guilty so far as the count in the indictment charging them with persuading Gertrude Baden alias Hays to come to Texas for such immoral purpose is concerned.

12. Because the evidence introduced by the Government does not negative the fact that the said Baden girls would or might not have taken said interstate journey for said purpose but for said alleged aid or persuasion, because even if the defendants did aid or persuade them, yet if the idea originated with said witnesses or they came of their own free will, although they might also have been aided, these defendants would not have been guilty, and the evidence does not show they would not have taken such interstate journey but for such persuasion or aid.

# Fourth.

- 1. Because the court erred in failing and refusing to instruct a verdict of not guilty as to the defendant Economides, because the proof does not show that he rendered any actual aid or assistance in the transportation of either of the girls named in the indictment.
- 2. Because under the terms of the law the mere persuasion or prevailing upon the said women named in the indictment to travel interstate with the intention on his part that they should at the end of their journey engage in prostitution or debauchery, or other immoral purpose,

not accompanied by any act of aid or assistance otherwise constitutes no offense on the part of Economides under the reading and provisions of the Act.

- 3. Because it is not shown by the testimony that Economides had any knowledge of the kind of place to which the women named in the indictment were traveling, nor that he had any interest in the place or the occupation of prostitution in Beaumont.
- 4. Because beyond the mere fact that Effie Hoke and the women named in the indictment met in his wine room, there was and is no evidence that Economides did any overt act to aid or assist them in their interstate journey, and under the terms of the Act under which this indictment was drawn such facts are insufficient in themselves to amount to an infraction thereof.

## Fifth

The court erred in refusing the special charge requested by the defendants, which reads substantially as follows, to-wit:

- 1. "The court in the indictment in which it is charged that the defendants induced Gertrude Hays (Baden), or furnished transportation for her to come to Beaumont is hereby withdrawn from your consideration, it appearing from Gertrude Baden alias Havs' own evidence that she came to Beaumont not by reason of any persuasion on the part of either of these defendants."
- 2. Because the testimony of the said Gertrude Baden shows that if she was persuaded to come to Beaumont, that the persuasion was on the part of her sister.

### Sixth.

The court erred in permitting Florence Baden alias Hays, one of the persons defendants are charged with having persuaded to take an interstate journey from New Orleans, La., to Beaumont, Texas, for an immoral

purpose, to testify as a witness for the United States, over the objection of the defendants, as follows, to-wit:

- 1. "I stayed in Effie Hoke's house in Beaumont about two weeks after I arrived in Beaumont. I left her house one morning about 5 o'clock. I wanted to leave and Miss Effie had said if we tried to get out she would kill us, so I got out that morning while she was asleep. We wanted to go to Houston but did not get our clothes. so we could not go. We went down to some hotel here (meaning Beaumont), started to go, and a policeman would not let us go. A fellow named Teddy arrested us. He took us to the hotel and then down to the jail at the That all occurred right after we left as court house. soon as we got upon the main street; it occurred about half an hour after we left. The man who arrested us was a policeman-he had a uniform on-there were two policemen that arrested us, one was called Teddy, I don't know the other one's name. Then we stayed down at the jail about an hour. When we got out of jail we went to the depot; then we tried to get our things and did not get them, and then we went to the Jefferson hotel and we were arrested again by two policemen whose names I do not know."
  - 2. And in this connection the court also erred in permitting Gertrude Baden alias Hays, another one of the persons defendants are charged with having persuaded to take said journey for such purpose, to testify over the objection of the defendant as follows, to-wit:
  - 3. "After we arrived in Beaumont, and when we would get out of debt to Effie Hoke she would buy clothes and say that we owed her that much more, and then she would tell us we would have to stay there (meaning at her house) until we paid her, and I had to follow the life of a common prostitute because I could not do otherwise."
  - 4. And in this connection the court also erred in permitting Annette Baden alias Hays, another one of the persons defendants are charged with having persuaded to take said journey for said purpose, to testify as a witness for the United States over the objection of the defendants as follows, to-wit:

- "After we arrived in Beaumont we stayed with Effie Hoke a week and a half and could not get out of debt. Peddlers would come along and she would buy us things, and we got in debt more and more and we never could get out of debt, so one morning we decided to pick up our clothes and go away. We packed up our clothes and one of my sisters got out in the morning and Gertrude did not get out. Ouida Landry and Florence got out. They left the house about 5 o'clock and Paul came back for us, the balance of us, and Effie Hoke woke up, and Effie said to him 'You have taken Florence and Ouida, and now you have come for Annette and Ger-trude" and she 'phoned for an officer and had him arrested, so the officer came and took Paul away. came into my room and taken my clothes and Gertrude's, and put them in a vacant room and locked them Fiffie Hoke told us she would keep our clothes until we paid her what we owed her. That afternoon Florence and Ouida got out: she would not give me my hat or coat or anything, so I borrowed the maid's coat and went to the postoffice, and there I met Florence and Onida, and was talking to them and was on my way to Effic's to stay with Gertrude, and an officer came up and said Miss Effie has got all three of you up for vagrancy. and he said von are under arrest. I 'phoned her (meaning Miss Effie Hoke) and asked her if it was so, that the marshal said I was under arrest, and that she had all three of us up for vagrancy and she said yes."
- 6. Because such testimony was and is immaterial, incompetent and irrelevant to any issue in the case, beyond the mere fact that after the Baden girls arrived in Beaumont they followed the business of prostitution, which these defendants admitted and offered to admit, and to the proof of which they did not object.
- 7. Because said testimony, going further and beyond establishing the mere fact that they followed the business of prostitution after arrival in Beaumont, and proving, as in fact it does prove, that defendant Effie Hoke enslaved them to a life of shame and degradation in a house of public prostitution in the city of Beaumont against their wills, is not only irrelevant and immaterial

to any issue in this case, but is highly prejudicial to the rights of these defendants, and was and is a gratuitous invasion of such rights, and was and is calculated to, and in the light of the verdict did arouse the passions of the jury against these defendants, and was and is calculated to cause the jury, and in the light of the verdict did cause the jury to convict these defendants on the charge of persuading said girls to leave New Orleans and go to Beaumont for an immoral purpose, more for the reason that the defendant, Effie Hoke, enslaved them in a house of prostitution in Beaumont against their wills, than for persuading them to leave New Orleans and take an interstate journey to Texas.

- 8. Because said testimony is hearsay, especially as to the defendant Economides, who was in New Orleans at the time of the transaction spoken of.
- 9. Because said testimony is a recital by the witnesses of what took place after the complete commission of the offense with which the defendants are charged.
- 10. Because said testimony, if it constitutes any offense, is one against the laws of Texas and not against the laws of the United States.
- 11. Because the allegations in the indictments do not put the defendants upon notice that such testimony as herein set out and objected to would be offered against them, and affords them no opportunity to rebut it.
- 12. Because proof of the matters herein set out occurring after the arrival of the witnesses in Beaumont, beyond the mere fact that they followed the business of prostitution, was and is not necessary to sustain the Government's case as charged in the indictment, and the only purpose which it could or did serve was to arouse the passions of the jury against the defendants, and to so blind them with prejudice against them that they the jury could not, and in the light of the verdict did not

give them a fair and impartial trial upon the specific charge laid in the indictment.

#### Seventh.

The court erred in refusing to permit the defendants to ask and the witness Florence Baden, alias Hays, to answer the following question:

- 1. "Q. Is it not a fact that when you arrived in Beaumont you were treated by a Beaumont physician for a venereal disease which you had contracted in New Orleans?"
- 2. Said witness at the time being a witness for the government, and was then and there being cross examined by defendants, and in this connection the court further erred in refusing to permit the defendants to prove by Dr. J. H. Reagan, a practicing physician in Beaumont, that in the month of November, 1910, and within a day or so after the arrival of the witness Florence Baden in Beaumont, she being one of the persons defendants are charged with having persuaded to take the interstate journey referred to in the bill of indictment in this case, he treated the said Florence Baden for a venereal disease which she had contracted in New Orleans.
- 3. Because said testimony offered by the defendants was material and relevant in this: If the witness Florence Baden had denied that she had contracted a venereal disease in New Orleans for which she was treated after her arrival in Beaumont, the defendants could and would have contradicted her by Dr. Reagan, or if she had admitted it, it would have been a circumstance tending to establish the fact that she was a common prostitute in the city of New Orleans, which she had denied, a fact from which the jury could and would have concluded that she came to Beaumont by reason of her own free will and desire, and not because of any persuasion, and this is especially true because it was established by the evidence in this case beyond dispute that the earning

power and the compensation of public prostitutes in Beaumont was much greater than in New Orleans.

# Eighth.

The court erred in refusing to permit the witness Annette Baden a witness offered on behalf of the United States, one of the persons defendants are charged with having persuaded to take the interstate journey described in the indictment, while upon cross examination by the defendants to answer the following question:

- 1. "I will ask you if it is not a fact that you and Ouida Landry in the city of New Orleans, prior to coming to Beaumont, were not engaged in the business of soliciting the patronage of men for the purpose of prostitution, and is it not a fact that you followed that vocation around the passenger depots, and on the street?" And in this connection the court further erred in refusing to permit the defendants to prove by the witness W. A. Whitney, a former resident of New Orleans, that prior to November, 1910, he knew from his own knowledge and the general reputation of Annette Baden and Ouida Landry that they were common prostitutes, and that they frequented the passenger depots and solicited men to acts of illicit intercourse in said city of New Orleans.
- 2. Because said testimony would have proved or tended to prove that Annette Baden was a public prostitute in New Orleans before she came to Beaumont, a fact from which the jury could have inferred and would have been warranted in deducing the further fact that she was not persuaded or coerced to come to Beaumont for an immoral purpose, but that she did so of her own free will.

### Ninth.

The court erred in refusing to permit the witness Ouida Landry, a witness for the United States, on her cross examination by defendants, to answer questions propounded by the defendants calculated to elicit from her the fact that prior to coming to Beaumont she was engaged in the business of a common prostitute, and had been so engaged for several years in the city of New Orleans: that in said city she was a street walker; that she was an inmate of a house of prostitution kept by one Pauline Wilson, and one kept by a woman named Anna, and one kept by May Derby; and in this connection the court further erred in refusing to permit the defendants to prove by Pauline Wilson that Ouida Landry was an inmate of a house of prostitution which she. the said Pauline Wilson kept in the city of New Orleans. prior to November, 1910; said testimony was admissible, relevant and material in this, that while the witnesses Florence, Gertrude and Annette Baden denied that they were public prostitutes in New Orleans, they admitted that they were the friends and associates of the said Ouida Landry in said city prior to coming to Beaumont: that Ouida Landry came to Beaumont shortly before they did, and that before coming to Beaumont they knew that Ouida Landry was in the city of Beaumont-facts from which the jury could and would have been authorized to conclude that the said Baden girls were also prostitutes in New Orleans prior to coming to Beaumont, a fact from which they could have drawn the further conclusion that they came of their own free will and were not persuaded or coerced to come.

# Tenth.

The court erred in refusing to give defendants special charge to the jury to the following effect:

"As the Act under which this indictment is drawn does not prohibit or forbid any woman or girl to travel from one State into another for the purpose of there engaging in prostitution or debauchery or other immoral purpose, her acts in so travelling is lawful, regardless of her intention, and under the Constitution of the United States Congress cannot make a crime of one aiding, or assisting or persuading or prevailing on her to take such

journey for the purpose of having her engage in prostitution or debauchery or other immoral purpose, you will therefore acquit the defendants," in that

- (1) The Act in question does not prohibit or forbid, or define as a crime prostitution, debauchery or other immoral purpose on the part of the female so travelling or intending to travel.
- (2) Nor does the act make it a crime for such women as prostitutes or being guilty of debauchery or other immoral practices, to travel upon interstate journeys.
- (3) Nor does the said act make it a crime for such woman or girl at the end of her journey to engage in the practice of prostitution, debauchery or other immoral purposes, and thereby and therein her acts being lawful in so far as the United States government is concerned in the respects named, Congress has no power to make it a crime for one to aid, assist or persuade such woman to take such journey. And for the same reasons the court erred in overruling defendants motion to instruct a verdict of acquittal.

### Eleventh.

The court erred in refusing to give the special charge requested by defendants, substantially as follows, to-wit:

- "You are instructed to acquit the defendants on the following grounds. Because the act under which they are being prosecuted is unconstitutional and void in that,
- "1. Because it interferes with the privileges and immunities of the citizens of the several States in this: that the right to travel interstate is a lawful right, which the Act does not forbid, and any other citizen has the right to aid and assist the one making the journey regardless of the moral or immoral intention of either.
- "2. Because the Act does not make prostitution a crime, nor the interstate travel of a prostitute a crime, nor her intention to become a prostitute at the end of her journey a crime, and therefore the motive or intent of another, the defendants in this case, in aiding her to

make such interstate journey does not come within the constitutional grants to Congress to regulate commerce between the States," and for the same reason the court further erred in overruling defendants motion to instruct a verdict of acquittal.

# Twelfth.

The court erred in overruling and refusing the defendants motion to instruct a verdict of acquittal for the defendants on the ground of variance between the allegations in the indictment and the proof, in this:

- 1. Because the government failed and omitted to prove that the females, to-wit Annette Baden, Florence Baden and Gertrude Baden or either of them were transported over the line of the Texas & New Orleans Railread Co., as charged in the indictment, and in that the government failed to prove that the Texas & New Orleans Railroad Co. was a line of railway extending from New Orleans in the State of Louisiana, to the State of Texas, and in rejecting the proof offered by the defendants that the Texas & New Orleans Railroad is a line of railroad wholly within the State of Texas, and is operated by a company chartered by the laws of the State of Texas and is not an interstate corporation, and in this connection the court further erred in refusing to give the special charge asked by the defendants, substantially to the following effect:
- 2. "Because the evidence offered fails to show that the three girls who it is alleged in the indictment were caused to go and to be carried and transported as passengers, upon the line and route of a common carrier cangaged in interstate commerce, were carried and transported over the line of the Texas & New Orleans Railroad as alleged in said indictment."
- 3. And because the proof offered fails to show that the line of railroad of the Texas & New Orleans Railroad Company, the line of railroad over which it is alleged in the indictment the three girls were caused to be carried

and transported as passengers from New Orleans, La., to Beaumont, Texas, extends from the city of New Orleans, La., to the city of Beaumont, Texas.

#### Thirteenth.

The court erred in its main charge as given to the jury, which said charge is fully set out in Bill of Exceptions No. 2, and is here referred to and made a part of this assignment, in the following particulars, to-wit:

- 1. Because it omits to charge that persuasion, etc., must be connected with and followed by actual rendition of aid and assistance.
- 2. Because it omits to define the difference between mere persuasion and advice as to the females.
- 3. Because it omits definitions of prostitution, debauchery and other immoralities, and leaves the jury to infer that prostitution as such is necessarily limited to houses of prostitution, whereas prostitution includes all acts of lewdness upon the part of a female.
- 4. Because it omits to instruct a verdict of not guilty in favor of the defendant Economides, there being no evidence that he rendered actual aid and assistance toward the interstate journey of the females.
- 5. Because it omits to instruct a verdict of not guilty on the ground that the law under which the indictment was drawn is unconstitutional and void.
- 6. Because as to the female Gertrude Hays the court omits to charge the jury in express terms that the proof showed that the defendant Economides did not in any way persuade or assist in getting her to come to Beaumont for any purpose whatsoever.
- 7. Because it omits to charge that after arriving at the house of Effie Hoke in Beaumont, and before becoming inmates thereof they were informed and told the

kind of house it was, and they could have withdrawn and not entered said house, and thereby destroying the incriminating facts as charged under the law and showing no offense committed against the law.

- 8. Because it fails to state to the jury that when there has been persuasion or inducement it must be accompanied by actual rendition of assistance in travelling.
- 9. And with reference to that portion of the court's charge defining conspiracy, the court erred in this, that prostitution is not denounced as a crime; that the traveling of prostitutes is not prohibited by the act, and prostitution is not made a crime under the act, and therefore there can be no conspiracy committed in the exercise of a lawful act.
- 10. Because the court further erred in that part of its charge in which it instructs and permits the jury to consider Florence Baden as the agent of the defendants in persuading Gertrude Baden to come to Beaumont, which said portion of said charge is as follows:
- 12. "With reference to the third count in the bill of indictment, if the jury find from the evidence that the witness Florence Baden persuaded her sister Gertrude to come to Beaumont, but you believe from the evidence beyond a reasonable doubt that in doing so she acted for the defendants and at their request, then I inform you as a matter of law that the act of Florence Baden in trying to persuade, induce or entice her sister Gertrude to make the interstate journey, would be the act and statement of the defendants, or the one of them who requested her to see and persuade Gertrude, and the defendants or the one of them who made the request, if after being made Florence acted upon it, would be liable and bound by the persuasion, inducement or enticement that Florence offered to Gertrude."
- 13. Because there is no evidence that Florence Baden acted as the agent of either of these defendants, and because the testimony of Gertrude Baden herself is that she came because she wished to follow in the lead

of her sisters, and therefore she was acting under persuasion of Florence, in her own proper person as a principal and not as the agent of anyone.

- 14. Because the court erred in that part of its charge in which it undertook to define reasonable doubt, as follows, to-wit:
- "I want to say a word on the subject of reasonable doubt. It must not be a fanciful doubt, or such a doubt as originates or arises in a disordered mind, but must be a reasonable doubt, such a doubt as would arise in the mind of a sensible or reasonable man from the evidence or lack of evidence in the case. Where the evidence in the case is of such a character that a sensible and reasonable man would feel justified in acting upon it, in matters of the highest importance and concern to his own interests, then the degree of strength and cogency required by the law has been attained. falls short of this test, the doubt is such a reasonable doubt as would authorize the jury to acquit. That is the kind of doubt the law means, and what the court means in telling you, you would be testified (justified) in acquitting the defendants if you entertain a reasonable doubt. It must be such a doubt as arises from a lack of evidence or from the evidence in the case in the mind of a reasonable man."
- 15. Because the court in emphasizing those things which do not constitute reasonable doubt impressed on the minds of the jury that the court was of the opinion that there was no reasonable doubt of defendants guilt, and because the term reasonable doubt is a comprehensive term of ordinary significance, with no special legal definition.

# Fourteenth.

Because the court erred in failing and refusing to instruct the jury to acquit the defendants of the charge of having persuaded, induced, coerced and enticed, or assisting or aiding in persuading, inducing, enticing or coercing the witness Gertrude Baden alias Gertrude Hays to go and become a passenger in interstate commerce

from the city of New Orleans, La., to Beaumont, Texas, for the purpose of prostitution, because the evidence, and especially the testimony of the witness Gertrude Baden alias Hays, herself, shows that she came to Texas because her sisters were coming and that she was following the lead of her sisters;

1. And in this connection the court further erred in overruling and refusing the defendants motion to instruct a verdict as to the third count in the indictment, which ground of the motion is as follows, to-wit:

"And the defendants further ask the court to instruct a verdict of not guilty on the third count in the indictment in which it is alleged that they persuaded and assisted in persuading Gertrude Baden alias Gertrude Hays to go in interstate commerce from New Orleans, La., to Beaumont, Texas, for the purpose of prostitution, because it appears from the evidence, and especially the evidence of Gertrude Baden alias Hays that she came to Beaumont by reason of the persuasion and inducement of her sister Florence and because it affirmatively appears from the evidence that the real motive and incentive moving her to come to Texas was a desire to follow the lead and to follow in the footsteps of her sisters."

2. And in this connection the court further erred in refusing to give the special charge requested by defendants as to said third count in the indictment as follows, to-wit:

"The count in the indictment in which it is charged that the defendants induced Gertrude Hays, or furnished transportation for her to come to Beaumont is hereby withdrawn from your consideration; it appearing from Gertrude Hays' own evidence that she came to Beaumont not by reason of any persuasion on the part of any of these defendants;"

3. And in this connection the court further erred in charging in substance and effect that if the jury bebelieved the witness Gertrude Baden alias Hays came to Texas by reason of the persuasion and influence of her

sister Florence Baden alias Hays, that the jury could still convict the defendants if in that connection they believed Florence Hays was acting as the agent of the defendants or either of them, the error consisting in this; that there is no evidence in the record showing that the said Florence Hays acted as the agent of the defendants or either of them, or had any authority to so act in persuading her to take such interstate journey.

# Fifteenth.

- 1. The court erred in failing and refusing to charge and to give defendant Effie Hoke's specially requested instruction to the effect that
- "The witness Theresa Flood is an accomplice to the defendant Effie Hoke, and you cannot convict upon her testimony unless you believe it to be true, and then you cannot convict unless you believe that it is corroborated and the corroboration is not sufficient if it merely shows the commission of the offense, but must go further and connect or tend to connect the defendant Effie Hoke with its commission;"
- And in this connection, the matter having been called to the attention of the court, by special charge, and the court having refused the same, it erred in its failure to define an accomplice to the jury, and to tell them, in that connection, that if they believed from the evidence that she was an accomplice to the defendant Effie Hoke, that, in that event, they could not convict unless they believe they believed there was such corroboration of her testimony as required by law, the witness Theresa Flood having testified that she carried or went with the three girls to the depot and purchased their tickets with money furnished by Effie Hoke, and accompanied them on their journey interstate, knowing the immoral purpose for which they were making the journey, she thereby gave "aid" and "assistance" in the furtherance and accomplishment of said unlawful act, and was therefore an accomplice, or at any rate the jury should have

been allowed the opportunity of passing upon this phase of the case under appropriate instructions.

#### Sixteenth.

The court erred in overruling and refusing the motion of defendant Basile Economides to instruct his acquittal on the following grounds to-wit:

- (1) That he did not aid or assist in the transportation interstate of either of the women or girls named in the indictment.
- (2). That the mere persuasion or prevailing upon the women or girls named in the indictment to travel interstate with the intention on his part that they should at the end of their journey engage in prostitution or debauchery or other immoral purpose not accompanied by any act of aid or assistance otherwise, constituted no offense on the part of Economides under the reading and provisions of the act.
- (3). Because it is not shown by the testimony that Economides had any knowledge of the kind of place to which the women or girls named in the indictment were traveling, nor that he had any interest in the place or the occupation of prostitution in Beaumont.
- (4). Because beyond the fact that Effie Hoke and the women or girls named in the indictment met in his wine room or place of business, there was and is no evidence that Economides did any act to aid or assist them in their interstate journey; and under the terms of the act under which this indictment is drawn such facts are insufficient in themselves to amount to an infraction thereof.

### Seventeenth.

The court erred in refusing to give defendant Economides special charge No. 1, instructing a verdict of acquittal which is in substance as follows:

"There is no proof before you that the defendant Economides rendered any actual aid or assistance in the transportation of Annette Baden alias Hays or Florence Baden alias Hays or Gertrude Baden alias Gertrude Hays in interstate transportation to Beaumont; and under the act under which the indictment is returned in this case, it is necessary and devolves upon the government to prove that he actually rendered such aid and assistance in addition to persuading the said women or girls to go from New Orleans to Beaumont."

The error being that the court's charge contained no charge or instruction of similar import and said requested charge was demanded under the facts proven in the case.

### Eighteenth.

The court erred in refusing to give the special charge No. 2 of defendant Economides, which is in substnace as follows, to-wit:

"If you believe from the evidence that defendant Economides did make an appointment with the girls named in the indictment, or either of them to meet the defendant Effie Hoke and that they did meet her through his appointment, and if you believe that after so meeting her, he did advise them to come with her to Beaumont, Texas, but used no other means of persuading them to come, and that he did no act toward furnishing them transportation from New Orleans to Beaumont, Texas, that you should then acquit the defendant Economides,"

The error being that the act under which this indictment is drawn requires the actual rendition of aid or assistance in addition to persuasion or enticement and there was no instruction from the court upon this view of the law and the evidence required that there should be instruction similar to that contained in the foregoing special charge.

### Nineteenth.

The court erred in refusing to give to the jury the de-

fendants' special charge in substance and effect as follows:

- "All the testimony introduced by the government in this case for the purpose of showing or tending to show that subsequent to the arrival of the three girls in question in the city of Beaumont that Effie Hoke did for the purpose of detaining them in her house, purchase clothing and other articles not needed or desired by them and thereby kent them in her debt is hereby withdrawn from you and you will not consider said testimony or any part thereof for any purpose whatever," because:
- (1). The same is incompetent, irrelevant, and immaterial in that it does not constitute any part of the proof of the government's case as charged in the indictment, beyond the mere fact that they practiced prostitution after their arrival in Beaumont which was proved without objection on the part of defendants;
- (2). Such testimony was highly prejudicial to these defendants, was calculated to and did inflame the minds of the jury against them, and because of proof of the enslavement of said girls after their arrival in Beaumont, tended and did in fact cause the jury to lean most strongly against them and largely contributed to their conviction;
- (3). Such testimony could not in any manner bind defendant Economides, he not having been shown to have been present at such time, or in any manner a party to such enslavement.

In this connection the court further erred in not covering the matter referred to in said special charge as hereinbefore set out in said main charge, especially in view of the fact that said special requested charge called the matter to the court's attention.

### Twentieth.

The Court erred in failing and refusing to give the following specially requested instruction for the defend-

ants, and since the matter was called to the court's attention by said specially requested charge, it erred in failing and refusing to embody the matters therein set forth and suggested, in its main charge; said specially requested charge being as follows, to-wit:

- "You are further instructed that you cannot convict the defendant Economides for keeping a wine room in New Orleans, nor for any act he did, nor for any character of business he may have engaged in; and you are further instructed that you cannot consider such evidence except for the purpose of showing the situation of the parties and shedding light on the specific acts charged in the indictment herein, if in your opinion it does shed light upon the same, in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Economides did the acts charged in the indictment, then you will acquit the defendant notwithstanding you may disapprove of the business in which he is engaged in the City of New Orleans, and I further instruct you that you will not allow the fact that defendant is the keeper of a wine room frequented by public women or prostitutes to in any way influence you in passing upon the defendants guilt or innocence, except as herein charged.
- "And I further charge you that you cannot convict the defendant Effie Hoke for keeping a bawdy house in Beaumont, nor can you convict her for attempting to have the girls arrested for taking their clothes away without first paying the debt due to the defendant, nor can you convict defendant Effie Hoke for any act or thing she did or may have done in the City of Beaumont, Texas, and you are further instructed that you cannot consider such evidence, except for the purpose of showing the situation of the parties and shedding light upon the specific act charged in the indictment herein, if in your opinion it does shed light upon the same, in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Effie Hoke did the acts charged in the indictment then you will acquit the defendant, notwithstanding you may disapprove of the business in which she is or was engaged in Beaumont; and I further instruct you that you will not allow the fact that defendant Effie Hoke was the keeper of a baw-

dy house to in any way influence you in passing upon the defendant's guilt or innocence except as herein charged."

Because the court had allowed the United States District Attorney on his direct examination of the alleged injured parties whose names are set forth in the indictment, viz: Florence, Gertrude and Annette Baden, alias Hays, over the objection of defendants to prove that after their arrival in the defendant Effie Hoke's house in Beaumont, she detained and enslaved them in a house of public prostitution and to a life of shame and degradation against their will, which facts not constituting any part of the proof necessary to sustain the government's case as alleged in the indictment, and the same being highly prejudicial and calculated to arouse the passion of the jury against the defendant, and in the light of the verdict did so arouse them, it was the duty of the court to withdraw from the consideration of the jury such evidence, in so far as it was within the power of the court to do so after the court had permitted the same to go before the jury.

### Twenty-first.

The Court erred in failing and refusing to give defendants specially requested charges, and in failing and refusing to embody the matters therein set forth in its main charge, in view of the fact that said special charges called the same to the court's attention, said special charges being as follows, to-wit:

1. "Unless you believe from the evidence beyond a reasonable doubt that the defendants knowingly and feloniously persuaded, induced, coerced, or caused to be persuaded, enticed, coerced, or assisted in persuading, inducing enticing or coercing the said girls or either of them, and unless you further believe from the evidence beyond a reasonable doubt that such persuasion, inducing, enticing or coercing was the cause of their going from New Orleans to Beaumont for immoral purposes, and unless you further believe from the evidence beyond

a reasonable doubt that defendants procured a ticket, or caused the same to be procured, and that the procuring of such ticket and the furnishing of the money therefor was for the purpose of inducing them to go to Beaumont for immoral purposes, then you must acquit the defendant.

- 2. "If you believe from the evidence that the defendant Effie Hoke persuaded the said girls or either of them to come to Beaumont, and purchased a railroad ticket for them or either of them, or if you believe that she did either of said things, then you will acquit her unless you also further believe that they the girls, came by reason of such persuasion, and in this connection you are also instructed that if they came by reason of their own desire and will to do so then you will acquit them, even if you should also believe that Effie Hoke persuaded them and furnished a ticket, or either persuaded or furnished a ticket.
- 3. "And if you believe from the evidence that said girls came by reason of their own will, then you will acquit them, even if you should also believe that the defendant Economides persuaded them to come, if you also believe that their coming to Texas was by reason of their own desires to come and not by reason of such persuasion."
- 4. "If you believe the defendant Effie Hoke loaned the money to the three girls in question, or either of them, with which they procured transportation to Texas, yet if you shall further believe that she loaned said money to them at their request and solicitation, or at the request and solicitation of either of said girls, or in so doing she wished simply to comply with their desires, and did not loan or give said money to them for the purpose of persuading or inducing them to come to Beaumont against their wills, then you will acquit the defendant Effie Hoke."
- 5. Because the evidence shows that the three Baden girls were poor; that while they denied being public prostitutes, they admit that they had lost their virtue in New Orleans; that they were frequenting wine rooms and working only part of the time, and for meagre wages, and that they knew their former friend and associate

Ouida Landry was then in Beaumont; that the earnings of lewd women were much greater in Beaumont than in New Orleans; that New Orleans was over-run with lewd women, and that they might have desired, and probably did desire to leave New Orleans and come to Beaumont to take up their abode; and the testimony of Effie Hoke was that they the Baden girls themselves, suggested the idea of their coming to Beaumont, and that they tried to borrow money from her to enable them to make the trip, which she refused to loan them, but later while in a state of intoxication, as shown by the government's own witnesses, she may have given them the money without having in view the idea of thereby inducing them to take the journey, or without having persuaded them to do it. and this phase of the case should have been submitted to the jury, i. e., that if it was their own desire to take the trip, if the idea to do so originated with them, if the money to do so was given by the defendant at their request, without any object or intent on her part to aid or induce them to take the trip, then the defendant was not guilty of any infraction of the statute under which this indictment was drawn.

6. Because even though the defendant might have suggested to, or advised the said girls to take said interstate journey, yet if their taking said journey was not caused by said advice or suggestion, but because they themselves wanted to go, and they themselves had already conceived the idea of going, these defendants would not be guilty, and the evidence raises a strong probability that they had entertained the idea of leaving New Orleans and coming to Beaumont before meeting with the defendants on the occasion named. This issue is raised by the evidence, and not only does the court fail to embody it in its main charge, but substantially states the converse thereof, i. e., that even if the girls desired and intended to go to Beaumont, yet if the defendants also persuaded them to go the de-

fendants would be guilty—nowhere telling the jury that before the defendants could be found guilty the jury must believe that the persuasion or inducement on the part of the defendants was the moving cause of the girls leaving New Orleans and coming to Texas, or that it influenced them to do so, and nowhere does the court tell the jury in its charge that if the girls wanted to go, and did go of their own free will, and that the advice or persuasion on the part of the defendants had nothing to do with their previously formed desire and intention to make the trip, that the defendants in that view of the case would be not guilty, and the evidence fairly raises the issue that there was a pre-formed wish and intent on the part of the said Baden girls.

GREERS & NALL,
T. H. BOWERS, AND
CHANDLER C. LUZENBERG,
Attorneys for Defendant, Basile Economides.

HAL W. GREER

Of Counsel for Economides.

BLAIN & HOWTH, . Attorneys for Defendant, Effie Hoke.

C. W. HOWTH, Of Counsel for Effie Hoke, one of the Defendants.

The foregoing has the following endorsements, to-wit: Cr. No. 167. The United States vs. Effie Hoke & Basile Economides. Assignments of Error. Filed May 23, 1911. J. R. Blades, Clerk.

### DEFENDANT'S PETITION FOR WRIT OF ERROR.

Filed May 23, 1911.

In the District Court of the United States for the Eastern District of Texas, Sitting at Beaumont.

The United States

versus

Cr. No. 167.

Effie Hoke and Basile Economides.

To the Hon., the District Court of the United States for the Eastern District of Texas, the Honorable Gordon Russell, presiding:

Effie Hoke and Basile Economides, the defendants, respectively show that they are aggrieved by the judgment and sentence of the court, the judgment of conviction being entered on April 11, 1911, and the sentence of the court being entered on the 15th day of April A. D. 1911, in the above entitled and numbered cause; and they do hereby pray for the allowance of a writ of error from the said judgment and sentence to the Honorable The United States Supreme Court at Washington, D. C., for the reasons specified in the assignment of errors, which is herewith filed, and they pray that this writ of error may be allowed, and that a transcript of the record and proceedings upon which such judgment and sentence was had shall be made out and duly authenticated and sent to the Honorable The United States Supreme Court: and that the Court will allow a supersedeas and suspension of the said judgment and sentence upon their giving bond either jointly, or severally, as the court may require, according to law, and that the court will sign the citation and approve the bond.

GREERS & NALL,
T. H. BOWERS, AND
CHANDLER C. LUZENBERG,
Attorneys for defendant Basile Economides.

HAL W. GREER, of Counsel for Economides.

> BLAIN & HOWTH, Attorneys for defendant Effie Hoke.

C. W. HOWTH, of Counsel for Effie Hoke.

This the 23 day of May, A. D. 1911, came the defendants Basile Economides and Effie Hoke, by their attorneys and filed herein and presented to the court their petition, praying for the allowance of a writ of error and assignment of errors intended to be urged by them, praying also that transcript of the record and proceedings and papers upon which the judgment and sentence herein was rendered, duly authenticated, may be sent to the Honorable The United States Supreme Court, at Washington, D. C., and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the writ of error upon each of the defendants giving bond according to law in the sum of three thousand dollars, which shall operate as a supersedeas bond.

GORDON RUSSELL, Judge Presiding.

The foregoing has the following endorsements, to-wit: Cr. No. 167. United States vs. Effie Hoke and Basile Economides. Defendants Petition for writ of error, and order of the Court allowing the same. Filed May 23, 1911. J. R. Blades, Clerk.

BAIL BOND OF BASILE ECONOMIDES. Filed May 24, 1911.

THE UNITED STATES OF AMERICA, Eastern District of Texas, ss.

We, Basile Economides, Lon A. Bernard, Theo. Milonopowlos and John Baylock, jointly and severally, ac-

knowledge ourselves indebted to the United States of America in the sum of Three Thousand (\$3,000.00) Dollars, lawful money of the United States of America, to be levied of our and each of our goods, chattels, lands and tenements, upon this condition:

Whereas, the said Basile Economides has sued out writ of error from the judgment of the District Court of the United States for the Eastern District of Texas, in the case in said Court wherein the United States of America are plaintiffs and said Basile Economides and Effie Hoke are defendants for review of said judgment in the Honorable, the Supreme Court of the United States.

Now, if the said Basile Econoimdes shall appear and surrender himself in the District Court of the United States for the Eastern District of Texas on and after the filing in said District Court of the mandate of said the Honorable Supreme Court of the United States, and from time to time thereafter as he may be required to answer any further proceedings, and abide by and perform any judgment, sentence, decree or order which may be had or rendered therein in this case, and shall abide by and perform any sentence, judgment, order or decree which may be rendered in the Honorable, the Supreme Court of the United States, and not depart from said District Court without leave thereof, then this obligation shall be void; otherwise, to remain in full force, virtue and effect.

Witness our hands and seals this ...... day of May, A. D. 1911.

BASILE ECONOMIDES	(Seal)
LON A. BERNARD	(Seal)
THEO. MILONOPOWLOS	(Seal)
JOHN BAYLOCK.	(Seal)

I, Lon A. Bernard, one of the signers as surety to the foregoing bond, do solemnly swear I am reasonably

worth in lands, goods, chattels, and tenements subject to execution over and above all liabilities and exemptions, the sum of Three Thousand (\$3,000.00) Dollars.

LON A. BERNARD.

Sworn to and subscribed before me this 16 day of May; A. D. 1911.

(Seal)

J. R. JEFFERSON, Notary Public Jefferson Co., Texas.

I, Theo. Milonopowlos, one of the signers as surety to the foregoing bond, do solemnly swear I am reasonably worth in lands, goods, chattels, and tenements subject to execution over and above all liabilities, and exemptions, the sum of Three Thousand (\$3,000.00) Dollars.

THEO. MILONOPOWLOS,

Sworn to and subscribed before me; this the 16th day of May, A. D. 1911.

(Seal)

J. R. JEFFERSON, Notary Public, Jefferson County, Texas,

I, John Baylock, one of the signers as surety to the foregoing bond, do solemnly swear I am reasonably worth in lands, goods, chattels, and tenements, subject to execution, over and above all liabilities and exemptions, the sum of Three Thousand (\$3,000.00) Dollars.

JOHN BAYLOCK,

Sworn to and subscribed before me, this 16th day of May, A. D., 1911.

(Seal)

J. R. JEFFERSON, Notary Public Jefferson County, Texas.

The foregoing bond is accepted, taken and approved this 24th day of May, A. D. 1911, before me.

GORDON RUSSELL, District Judge in and for Eastern District of Texas. The foregoing has the following endorsements, to-wit: Cr. No. 167. United States vs. Basile Economides. Bail bond of Basile Economides, upon writ of error to Supreme Court. Filed May 24, 1911. J. R. Blades, Clerk.

### BAIL BOND OF EFFIE HOKE.

Filed May 24, 1911.

THE UNITED STATES OF AMERICA, Eastern District of Texas, ss.

We, Effie Hoke, G. Hewitt, Thos. Robinson, and C. J. Ott, jointly and severally, acknowledge ourselves indebted to the United States of America in the sum of Three Thousand (\$3,000.00) Dollars, lawful money of the United States of America, to be levied of our and each of our goods, chattels, lands and tenements, upon this condition:

Whereas, the said Effie Hoke has sued out writ of error from the judgment of the District Court of the United States for the Eastern District of Texas, in the case in said Court wherein the United States of America are plaintiffs and said Effie Hoke and Basile Economides are defendants for a review of said judgment in the Honorable, the Supreme Court of the United States.

Now, if the said Effie Hoke shall appear and surrender herself in the District Court of the United States for the Eastern District of Texas on and after the filing in said District Court of the mandate of said the Honorable Supreme Court of the United States, and from time to time thereafter as she may be required to answer any further proceedings, and abide by and perform any judgment, sentence, decree or order which may be had or rendered therein in this case, and shall abide by and perform any sentence, judgment, order or decree which may be rendered in the Honorable, the Supreme Court of the United States, and not depart from said District Court

without leave thereof, then this obligation shall be void; otherwise, to remain in full force, virtue and effect.

Witness our hands and seals this ...... day of May, A. D. 1911.

EFFIE HOKE	(Seal)
G. HEWITT	(Seal)
THOS. ROBINSON	(Seal)
C. J. OTT.	(Seal)

I, G. Hewitt, one of the signers as surety to the foregoing bond, do solemnly swear I am reasonably worth in lands, goods, chattels, and tenements subject to execution over and above all liabilities and exemptions, the sum of Three Thousand (\$3,000.00) Dollars.

G. HEWITT.

Sworn to and subscribed before me this 16th day of May, A. D. 1911.

(Seal) HUGO R. BURNABY,
Notary Public in and for
Jefferson Co., Texas.

I, Thos Robinson, one of the signers as surety to the foregoing bond, do solemnly swear I am reasonably worth in lands, goods, chattels, and tenements subject to execution over and above all liabilities, and exemptions, the sum of Three Thousand (\$3,000.00) Dollars.

THOS. ROBINSON.

Sworn to and subscribed before me, this 16th day of May, A. D. 1911.

(Seal)

HUGO R. BURNABY,
Notary Public in and for
Jefferson County, Texas.

I, C. J. Ott, one of the signers as surety to the foregoing bond, do solemnly swear I am reasonably worth in lands, goods, chattels, and tenements, subject to execution, over and above all liabilities and exemptions, the sum of Three Thousand (\$3,000.00) Dollars.

C. J. OTT.

Sworn to and subscribed before me, this 16th day of May, A. D. 1911.

(Seal)

HUGO R. BURNABY, Notary Public in and for Jefferson County, Texas.

Taken and approved this 24th day of May, A. D. 1911, before me.

GORDON RUSSELL, District Judge.

The foregoing has the following endorsements, to-wit: Cr. No. 167. United States vs. Effie Hoke & Basile Economides. Bail Bond of Effie Hoke upon writ of error to Supreme Court of the United States. Filed May 24, 1911. J. R. Blades, Clerk.

### CITATION IN ERROR.

Filed May 25, 1911.

### UNITED STATES OF AMERICA, ss.

The President of the United States, to the United States or J. W. Ownby its District Attorney in and for the Eastern District of Texas, Greeting:

Whereas in a certain cause tried in the District Court of the United States for the Eastern District of Texas, at Beaumont, wherein the United States was and is plaintiff by bill of indictment, and Effie Hoke and Basile Economides were and are defendants by bill of indictment, a writ of error has been sued out to the Hon. the Supreme Court of the United States:

Therefore you are hereby cited and admonished to be and appear at the Supreme Court of the United States to be held in the City of Washington in the District of Columbia within 30 days from the date of this writ, pursuant to a writ of error filed in the Clerk's office of the United States District Court for the Eastern District of Texas, wherein the said Effie Hoke and Basile Econo-

mides are plaintiffs in error, and the United States is defendant in error, to show cause if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Edward Douglass White, Chief Justice of the Supreme Court of the United States of America this the 23rd day of May, 1911, and of the Independence of the United States the one hundred and

thirty-fifth.

J. R. BLADES

U. S. District Judge Presiding. GORDON RUSSELL,

Clerk.

### MARSHAL'S RETURN.

I, D. B. Lyon, United States Marshal for the Eastern District of the State of Texas, do hereby certify that I received the annexed citation on the 23 day of May, 1911, and upon the same day duly served the same upon J. W. Ownby, United States District Attorney for the Eastern District of Texas, by delivering to and leaving with the said J. W. Ownby in Lamar County in the State of Texas, and in the Eastern District thereof, a full, true and correct copy of said citation, certified to by the Clerk of the United States District Court in and for the Eastern District of Texas, under the seal of said court, to be a correct copy of said citation.

Witness my hand this the 23 day of May, A. D. 1911.

DUPONT B. LYON,
United States Marshal
for the Eastern District of Texas.
by C. W. BOUGHN,
Deputy.

The foregoing has the following endorsements, to-wit: Cr. No. 167. United States vs. Effie Hoke and Basile Economides. Citation in Error. Filed May 25, 1911. J. R. Blades, Clerk.

### WRIT OF ERROR AND ALLOWANCE THEREOF. Filed May 25, 1911.

### UNITED STATES OF AMERICA, ss.

The President of the United States to the Honorable Judge of the District Court of the United States in and for the Eastern District of the State of Texas, GREETING:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, and the sentence of the court, which is in said District Court before you, wherein the United States is plaintiff by a bill of indictment, and defendants in error in this proceeding, and Effie Hoke and Basile Economides were and are defendants in said bill of indictment, and plaintiffs in error in this proceeding, a manifest error hath happened to the great damage of the said Effie Hoke and Basile Economides, plaintiffs in error, as by their complaint appears.

We, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the United States Supreme Court in the City of Washington, D. C., together with this writ, so that you have the same at the City of Washington in the District of Columbia on the 23rd day of June, 1911, next, in the said Supreme Court of the United States of America, to be then and there held that the record and proceedings aforesaid being inspected, the said Supreme Court of the United States may cause further to be done therein to correct that error, what of right and according to the laws and customs of the United States should be done. Witness the Hon. Edward Douglass White. Chief

Justice of the Supreme Court of the United States, the 23 day of May, 1911.

J. R. BLADES,

Clerk U. S. District Court for the Eastern District of Texas.

GORDON RUSSELL

Allowed:

Judge Presiding.

I, D. B. Lyon, United States Marshal for the Eastern District of the State of Texas, do hereby certify that I received the annexed writ of error on the 23 day of May, 1911, and upon the same day duly served the same upon J. W. Ownby, United States District Attorney for the Eastern District of Texas by delivering to and leaving with the said J. W. Ownby, in Lamar County, in the State of Texas, and in the Eastern District thereof, a full, true and correct copy of said writ of error, certified to by the Clerk of the United States District Court in and for the Eastern District of Texas, under the seal of said court, to be a correct copy of said writ of error.

Witness my hand this the 23 day of May, A. D. 1911.

DUPONT B. LYON
United States Marshall
for the Eastern District of Texas.
By C. W. BOUGHN, Deputy.

I hereby certify that a true copy of the within writ has this day been lodged in the Clerk's office for the use of the defendant in error.

Dated 25th day of May, A. D. 1911.

J. R. BLADES,

Clerk U. S. District Court,

By C. C. BUMPAS, Deputy. Eastern District of Texas.

The foregoing has the following endorsements, to-wit: Cr. No. 167. United States vs. Effie Hoke and Basile Economides. Writ of error and allowance thereof. Service of this writ is hereby accepted. Filed May 25, 1911. J. R. Blades, Clerk.

### CLERK'S CERTIFICATE.

I, J. R. Blades, Clerk of the District Court of the United States for the Fifth Circuit and Eastern District of Texas, do hereby certify that the above and foregoing is a full, true and correct transcript of the record, bill of exceptions, assignment of errors, and all the proceedings in cause No. 167, Criminal Law, wherein The United States is plaintiff and Effie Hoke and Basile Economides are defendants, as fully as same remain on file and of record in my office at Beaumont, and that same constitutes the return to the annexed writ of error and citation.

Witness my hand officially and the seal of said Court, at Beaumont, Texas, this the 17th day of June, A. D. 1911.

J. R. BLADES, Clerk, By C. C. BUMPAS, Deputy.

### In the Supreme Court of the United States.

OCTOBER TERM, 1912.

EFFIE HORE AND BASILE ECONOMIDES,
PLAINTIFFS IN ERROR,

95.

THE UNITED STATES.

No. 381.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TEXAS.

#### MOTION TO ADVANCE.

The Solicitor General, on behalf of the United States, moves the court to advance this case for hearing during the present term with Nos. 588, 602, and 603, in which cases like motions are submitted.

All are criminal cases, arising under the act of Congress approved June 25, 1910, 36 Stat. 825, known as the White-Slave Traffic Act, and involve the constitutionality of that act. An economy of the court's time will result in hearing four similar cases at once.

In this case plaintiffs in error were convicted of violating the statute by causing three girls to go from New Orleans, La., to Beaumont, Tex., in interstate commerce, for the purpose of prostitution, and each was sentenced to a term of six years' penitentiary imprisonment.

The trial court overruled demurrers and motions which challenged the constitutionality of the act. Such rulings and certain others respecting the admission of testimony and the refusal to submit certain charges to the jury are assigned as error in this court.

Notice has been given of this motion.

WILLIAM MARSHALL BULLITT, Solicitor General.

WILLIAM R. HARR,

Assistant Attorney General.

OCTOBER 15, 1912.

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Adopting the arguments and citation of authority by Plaintiffs in Error, in No. 603 and 842, as to the unconstitutionality of the White Slave Act, Effie Hoke offers the following in reply to the government's brief upon the other errors assigned.

1.

With reference to the second and third assignments of error in which plaintiff in error complains of the refusal of the court to instruct a verdict of not guilty as to that count in the indictment which charged her with persuading Gertrude Baden to take an interstate journey because there is no evidence to show that either of the defendants persuaded Gertrude. The Government in its brief summarily dismisses this complaint by calling the court's attention to the fact that the trial court instructed the jury substantially that if they believed Florence acted as the agent of the defendants in persuading Gertrude, they should in that event find them guilty.

Plaintiffs in error not only complained of the refusal of the court to instruct a verdict of not guilty as to this count, but they also complained of the charge of the court authorizing the jury to find defendants guilty if they believed Florence acted as their agent in persuading Gertrude, because it is not alleged in the indictment that defendants persuaded Gertrude through the agency of any one, and because there is no evidence that

Florence persuaded Gertrude to take the interstate journey. The nearest approach to evidence which has been tortured into an act of persuasion on the part of Florence is the fact that Florence told Gertrude to come to the saloon in New Orleans. and see what the lady wanted. The testimony of Gertrude taken in its entirety shows conclusively that neither of the defendants said a word to her about going to Texas at the saloon or elsewhere, and that all Florence said to her was to come to the saloon, and that she took the interstate journey for the sole reason that her sisters were going. The plaintiff in error also calls the attention of the Court to the fact that in treating the persuasion of Gertrude as having been accomplished through the agency of Florence, that Florence was an accomplice and that the Court should have instructed the Jury to the effect that they could not convict upon the uncorroborated testimony of Florence (testimony set out in 2nd and 3rd assignments of Effie Hoke's brief with citation to pages of Tr. of Rec.).

2.

As to the complaint in plaintiff's in error's fourth assignment, that the Court refused to submit a phase of the case fully raised by the evidence, that is, that if the jury believed that the idea to take this interstate journey for an immoral purpose originated with the alleged injured females and they formed the purpose to go and would have gone on the interstate journey without ever having seen either of the defendants, and that defendants' alleged request that they take the journey did not persuade them or influence them, defendants

should be acquitted. This complaint is also summarily dismissed by the learned Assistant Attorney General by the general statement "that the court's charge as a whole shows that it carefully covers all requested instructions which it would have been

proper to grant."

In this assignment the defendants complain of the refusal of the Court to instruct the Jury substantially, that if the alleged injured girls previously formed the intent to take the interstate journey, and did take it without being influenced by the acts of the defendants, they would not be guilty, but the court not only refused to submit this phase of the case to the jury, but on the contrary, submitted the converse thereof, that is, "that even if the girls desired and intended to go to Beaumont yet if the defendants also perthe defendants snaded them to go, guilty." act under which this The dictment was found, and this conviction had. denounces the act of persuasion and does not denounce the act of attempting to persuade. persuade" as used in this Statute has the same meaning as the word "persuade" has in its ordinary acceptation. And to say that a person is persnaded to do an act means that some act intended to induce the person to do the act has been done. and, furthermore, that the person does the act by reason thereof. An attempt to persuade without actual persuasion is not an offense denounced by the Statute any more than is an attempt to commit theft an offense under a statute denouncing theft (pages Tr. of Rec. 390-401-402).

As to the plaintiff's assignment that the Court erred in admitting over their objection, testimony substantially to the effect that after the arrival of the girls in Beaumont they were detained and enslaved to a life of degradation by the device of keeping them in debt and arresting them on a charge of vagrancy when they attempted to escape, the Assistant Attorney General says:

"This evidence sheds light upon the intention of the accused in inducing these girls to go to Beaumont and was, therefore, properly admissible. The Court was careful to caution the Jury with respect to the extent to which they could consider such testimony" (page 86 et seq., page 136 et seq., page 26 et seq., 366-375-380, Charge of Court 386 and 389, 406-407-418-432-434-435).

The Assistant Atorney General fails to inform this Court that the trial court's instruction with "respect to the extent to which they could consider this testimony" was simply that they could not consider it against her co-defendant Economedes, because he was not present; and that the court in this connection refused to give in charge to the jury a specially requested charge in writing submitted by the defendant, Effie Hoke, or to cover the same in its main charge, directing the Jury that the evidence of enslavement of the alleged injured girls (admitted over her objection and in spite of her admission that after their arrival in Beaumont the girls engaged in prostitution) might be considered only for the purpose of shedding

light upon the intention with which they were induced to take the interstate journey. This is the only ground upon which said testimony was admissible and the Court should have so limited its consideration by the jury, and in view of defendant's admission that the girls engaged in prostitution after their arrival in Beaumont this testimony became and was inadmissible for any purpose and highly prejudicial to defendant Hoke.

4.

As to the plaintiff in error's assignment of error that prior to their coming to Texas the alleged injured females were public prostitutes in the City of New Orleans, Lousiana. The learned Assistant Attorney General again summarily disposes of this assignment by saying that the evidence was immaterial because "while the act was designed to protect the innocent and virtuous is not limited to them." This we admit, but the testimony going to show that the girls were public prostitutes prior to taking the interstate journey was admissible upon another ground, not as a defense per se, but for the purpose of showing that they were not persuaded or induced or enticed to take an interstate journey for an immoral purpose. It certainly seems logical, and the evidence, therefore, relevant and material, that the injured females were public prostitutes prior to the alleged persuasion to take an interstate journey for an immoral purpose as tending to show that defendant's contention that they were not persuaded is probably true. Nor can the complaint of plaintiff in error be met by saying that the girls admitted they were "not virtuous" previous to the alleged

offense, in view of their denial that they were public prostitutes and their contention that they were working girls (pages 364-370-373-377-420-421).

We suggest to the Court that the persuasion of the alleged females, if they were persuaded, occurred at one and the same time and place and therefore constitutes but one offense and the action of the trial Court in treating each count respecting the same transaction as a separate offense, sentencing these defendants to 6 years imprisonment—which is one year in excess of the maximum penalty allowed by the statute—is void.

For the errors pointed out we respectfully submit the judgment and sentence should be set aside.

> C. W. HOWTH, Counsel for Effie Hoke.

# In the Supreme Court of the United States

WRIT OF ERROR FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EAST-ERN DISTRICT OF TEXAS.

EFFIE HOKE AND BASILE ECONOMIDES, Plaintiffs in Error

VS.

THE UNITED STATES OF AMERICA, Defendant in Error.

Brief and argument of the plaintiff in error, Effie Hoke, by her counsel, C. W. Howth.

The defendant, Effie Hoke, adopts all of the assignments, propositions, statements, arguments and citation of authorities in the brief submitted by the defendant Economides, and in addition, respectfully submits the following reasons why this case should be reversed and remanded for a new trial in the event the court should hold that the law under which the conviction was had is constitutional.

### DEFENDANT HOKE'S FIRST ASSIGNMENT OF ERROR.

- (a) "The government failed and omitted to prove that the females, viz: Annette Baden, Florence Baden and Gertrude Baden, alias Hays, or either of them, were transported over the line of the Texas and New Orleans Railroad Company, as charged in the indictment, in that the government failed to prove that the Texas and New Orleans Railroad Company was a line of railroad New Orleans in the State extending from of Louisiana into the State of Texas, and further, in that the court will take judicial knowledge of the fact that the Texas and New Orleans Railroad Company is chartered as such under the laws of the State of Texas, having its terminii wholly within the State of Texas, to-wit: The city of Houston, Texas, on the west, and the city of Orange, Texas, on the east." (P. 414, Tr. of Rec).
- (b) "The court erred in overruling and refusing defendant's motion to instruct a verdict of acquittal on the ground of variance between the allegation in the indictment and the proof, in this:
- "Because the government failed and omitted to prove that the females, to-wit: Annette Baden, Florence Baden and Gertrude Baden, or either of them, were trunsported over the line of the Texas and New Orleans Railroad Company as charged in the indictment and in that the government failed to prove that the Texas and New Orleans Railroad Company was a line of railroad extending from New Orleans, in the State of Louisiana to the State of Texas, and in rejecting the proof offered by the defendants that the Texas and New Orleans Railroad is a line of railroad wholly within the State of Texas and is operated by a company chartered under the laws of the State of Texas and is not an interstate corporation, and in this connection the court further erred in refusing to give the special charge asked by the defendants to the following effect:

"Because the evidence offered fails to show that the three girls who it is alleged in the indictment were caused to go and to be carried and transported as passengers upon the line and route of a common carrier engaged in interstate commerce, were carried and transported over the line of the Texas and New Orleans Railroad as alleged in the indictment.

"And because the proof offered fails to show that the line of railroad of the Texas and New Orleans Railroad Company, the line of railroad over which it is alleged in the indictment the three girls were caused to be carried and transported as passengers from New Orleans, La., to Beaumont, Texas, extends from the city of New Orleans, La., to the city of Beaumont, Texas." (Twelfth Assignment, p. 424, Bill of Exceptions, No. 18, p. 396, Tr. of Ree).

# FIRST PROPOSITION UNDER ABOVE ASSIGNMENTS.

Every essential allegation in an indictment must be proved as alleged, a failure to prove which constitutes a fatal variance.

### STATEMENT UNDER FIRST PROPOSITION.

All of the proof offered in support of this particular allegation has been carefully gathered from the entire record by the government in its qualification of the Bill of Exception, reserved by defendants, as well as the court's charge covering this point, and is to be found on pp. 397, 398, Tr. of Rec., which is quoted in full as follows:

Annette Hays testified: "We took the train at the Union Station in New Orleans. I do not know the name of the road. Theresa Flood bought the tickets. We got on the train at New Orleans about 8:30 and arrived at Beaumont about 8:00 the next morning. We stayed in the same coach on the train from the time we left New

Orleans until the time we arrived at Beaumont." (See page 10, Bill of Exception No. 2).

Florence Hays testified: "Theresa Flood bought the tickets at the Union Station at New Orleans. We left New Orleans at about 9:15 and stayed on the same car all the way to Beaumont, Texas. (See page 67, Bill of Exception No. 2).

Theresa Flood testified: "After we left Miss Pauline Wilson's, we went to the Union Station in New Orleans. I bought the tickets for myself and the girls from New Orleans to Beaumont, Texas. I bought the tickets from the Southern Pacific road. We got right on the train and come from New Orleans to Beaumont, staying in the same car all the way from New Orleans to Beaumont." (See page 151, Bill of Exception No. 2).

On this phase of the case the Judge in his general charge instructed the jury as follows:

"Now, gentlemen the term 'common carrier engaged in interstate commerce' means simply this: That it is a carrier which transports persons or property for hire between one place in one State and another place in another State, and if you believe the carrier which brought these girls from New Orleans, Louisiana, to Beaumon, Texas, was a carrier which transported persons or property for hire, then the court informs you, as a matter of law, that it would be a common carrier engaged in interstate commerce."

# ARGUMENT UNDER FOREGOING PROPOSITION AND STATEMENT.

From the above it will be seen that the only proof offered is substantially that the tickets were bought from the "Southern Pacific road;" that the prosecuting witnesses boarded a train in New Orleans and stayed on the same coach on the same train until they arrived in Beaumont. It is nowhere proved or attempted to be proved that they were carried between New Orleans and Beaumont "over the line of the Texas and New Orleans Railroad Company, a part of the Southern Pacific system, known as the Sunset Route," as alleged in the indictment.

The court, in qualifying the Bill of Exceptions, covered by this assignment, quoted from its charge the excerpt hereinbefore set out, the only inference language of which is that the court. considers that this assignment is fully answered by showing that he left it as an open question of fact to be determined by the jury whether the so-called white slaves were transported from Louisiana to Texas by a "common carrier."

Such, however, is not the point raised by this assignment.

There is and never was any contention by defendants that the prosecuting witnesses were not conveyed from the one State to the other by a "common carrier."

Defendant's contention is the government having alleged that they were carried "over the line of the Texas and New Orleans Railroad Company, which line of railroad is a part of the Southern Pacific Railway system and is commonly known as the Sunset Route," that it was its duty specifically to prove such allegation, and, having failed in this respect, the variance is fatal to conviction. This requirement is not met by the proof that the prosecuting witnesses "left New Orleans about 8:15 and stayed on the same car all the way to Beaumont," nor is it met by proof that the tickets were bought from the "Southern Pacific road?"

Nowhere is it proved that they were transported from the one State to the other over the line of the Texas and New Orleans Railroad Co., a part of the Southern Pacific system," nor can this fact be inferred from the proof that they bought the tickets from the Southern Pacific road and stayed on the same car all the way to Beaumont, nor can it be inferred that the Texas and New Orleans Railroad is part of the Southern Pacific system from the mere fact they stayed on the same car all the way from New Orleans to Beaumont. Even if it may be so inferred by stretching the law of deduction to the breaking point, still the requirement is not met, for the government did not attempt to prove the name of the road over which they were transported. The only proof offered is the mere inference that they were transported over an unknown line of railroad belonging to the Southern Pacific system, from the fact that the tickets were bought from the Southern Pacific road.

It can hardly be doubted that the Bailroad over which the injured parties were transported and that it was a common carrier, was an essential allegation under the statute.

Will the court take judicial knowledge that they were transported over the Texas and New Orleans Railroad, from the proof that they bought the tickets over the Southern Pacific road?

If so, will not the court also take judicial knowledge of the fact that the Texas and New Orleans Railroad Company is a Texas corporation and that its line of railroad lies wholly within the State of Texas?

If so, there is a variance between such fact and the allegation in the indictment that they were transported from New Orleans to Beaumont over the Texas and New Orleans Railroad.

The court judicially knows that most of the railways of America are grouped, owned, operated or controlled by "systems"—The court judicially knows by name the Southern Pacific system, (another name for the Harriman system,) the Frisco System, the Santa Fe system, the Gould system, and others, but does the court judicially know the names of the different railroad corporations that constitute the different systems?

The proof is not that they bought the tickets from the "Southern Pacific system" but from the "Southern Pacific road."

Suppose the defendants had been indicted for embezzeling funds of the Texas and New Orleans Railroad Company, would proof that they emblezzled funds belonging to the Southern Pacific road have sufficed?

Besides it is submitted, that judicial knowledge does not dispense with proof of specific allegations in an indictment.

# DEFENDANT HOKE'S SECOND ASSIGNMENT OF ERROR.

"Because the evidencee . . does not show that the defendants, or either of them, persuaded, induced, coerced, enticed or assisted in aiding, persuading, inducing, enticing or coercing the witness, Gertrude Baden, alias Gertrude Hays, to become a passenger in interstate commerce from the city of New Orleans, La., to the city of Beaumont, Texas, for the purpose of prostitution or any other purpose. (a) Because it affirmatively appears from the testimony of Gertrude Baden, alias Hays, herself, that she came to Texas because her sisters were coming and that she was following in the footsteps of her sisters. (b) And for the reasons herein set out the court erred in failing and refusing to instruct a verdict of not guilty so far as the count in the indictment charging them with persuading Gertrude Baden, alias Hays, to come to Texas for such immoral purpose, is concerned. (Sub-division 11, Third Assignment, Tr. of Rec., pp. 414, 415. Bill of Exceptions No. 10, p. 383; Assignment of Error 14, p. 427).

## PROPOSITION UNDER ABOVE ASSIGNMENT OF ERROR.

It is the duty of the court to withdraw from the consideration of the jury any count in an indictment not supported by the evidence.

# STATEMENT UNDER SECOND ASSIGNMENT AND PROPOSITION THEREUNDER.

Upon this point Gertrude Baden, on her direct examination, testified as follows:

Questioned by United States District Attorney Own-

by, beginning at the bottom of p. 132, Tr. of Rec.:

Q. Well, the night you and your sisters came to Beaumont, where were you and what was the first information

you got about coming here?

"A. The first information I got was at my aunt's and my sister, Florence, came down after me and said she was coming to Beaumont. I did not know what she was coming for. She said for me to come to Economides saloon and a lady there would tell me.

"Q. Who was at Economide's place when you got

there?

"A. Effie Hoke and Mr. Economides and my two sisters.

"Q. Now go ahead and tell all you can remember what was said by Mr. Economides and by Effie Hoke in ref-

erence to getting ready to come to Beaumont.

- "A. He said more to my sisters than to me. He said they were coming to Beaumont; he did not tell me anything about it, and later on he said: "You are going over to see this lady, she has a private boarding house, but he never said what it was for. He said to Miss Effie: 'Here is the other little girl I was telling you about,' and they said lets have a drink and we had a drink.
  - "Q. Then, what else was said?
    "A. That is all I can remember.
  - "Q. That is all you remember?

"A. Yes, sir."

On cross examination by Effie Hoke, the witness, Gertrude Baden testified on this subject as follows: (p. 148, Tr. of Rec.)

"Q. Did you meet Effie Hoke before you left New Or-

leans?

"A. Yes, sir, I saw her at the wine room there.

"Q. You did not have any conversation with her?

"A. No, sir.

"Q. She did not speak to you.

- "A. She said: 'Yes, go to Beaumont and you will have a nice time.'
- "Q. Didn't you say you didn't have any conversation with her?
  - "A. I said Economides.
  - "Q. You did have a conversation with Effie Hoke?

"A. Yes, sir.

- "Q. Did you have a conversation with Effie Hoke at the wine room?
- "A. No, sir, she didn't have so much to say to me. She said she was glad to meet me.

"Q. Is that all she said to you?

"A. Yes, sir.

- "Q. Did she have anything else to say to you except she was glad to meet you.
  - "A. She didn't to me. She talked to my sisters.

"Q. Effie Hoke was drinking?

"A. Yes, sir.

"A. I knew my sisters were a little intoxicated. (p. 157).

"Q. Didn't you say, in answer to my question, that when you got to the saloon and did not find what she wanted that the reason you did not go back to your aunt's house was because she said you owed her money?

"A. She did not tell us anything at Pauline's.

"Q. Why didn't you leave the saloon and go back home?

"A. They kept forcing us to go.

"Q. Who did that?

"A. Miss Effie Hoke and Pauline?

"Q. Didn't you say they never said a word to you at the saloon?

"A. I said at the house. I never said at the saloon.

"Q. (p. 158) It was because of what your sister said to you that you came to Beaumont?

"A. Yes, sir. I don't say that. I would not have come to Beaumont if I had not been forced to by Effie Hoke.

"Q. What did she do to force you to come?

"A. I didn't have to come, I guess.

"Q. Did she force you to come?

"A. If it hadn't been for her I would not have come.

"Q. Did she force you to come?

"A. Yes, she kept telling me to come.

"Q. She forced you to come because she told you to come?

"A. Yes, sir.

"Q. You thought it was your duty to obey her?

"A. I listened to her as the rest of them did.

"Q. It was not because your sister advised you to come that you came over here?

"A. No, sir.

"Q. Your sister advising you and persuading you to come never had anything to do with your coming?

"A. Yes, sir, if she had not come out there, I would

not have come.

"Q. Effie Hoke never said anything to you at the saloon except, 'Howdy, I am glad to see you?'

"A. Yes, sir.

"Q. Why did not you turn and go back home?

"A. She said come over to Pauline's.

"Q. Didn't you say she never said a word to you?

"A. She spoke to my other sisters.

"Q. You did not go to Pauline's house because of any-

"A. She was forcing my other sisters to go, and I went where they went.

"Q. You would go where they went?

"A. Yes, sir.

"Q. She did not say a word to you that persuaded you to go from the saloon?

"A. No, sir, she forced my other sisters to go. She

didn't say anything to me.
"Q. You went along because she persuaded your sis-

ters to go?
"A. Yes, sir.

"Q. Is that right?

"A. Yes, sir.

"Q. Simply because she persuaded your sisters to go,

and that is the reason you went?

"A. I followed the oldest ones; they were persuaded and forced and I went with them.

"Q. Your sisters were forced and you followed their lead; is that correct?

"A. Yes, sir, I suppose it is.

"Q. You followed in your sister's footsteps?

"A. Yes, sir.

### DEFENDANT HOKE'S THIRD ASSIGNMENT OF ERROR.

"Because the court further erred in that part of its charge to the jury in which it instructs and permits the jury to consider Florence Baden as the agent of defendants in persuading Gertrude Baden to come to Beaumont, which said portion of said charge is as follows:

"With reference to the third count in the Bill of Indictment, if the jury find from the evidence that the witness Florence Baden persuaded her sister Gertrude to come to Beaumont, but you believe from the evidence beyond a reasonable doubt that in doing so she acted for the defendants, and at their request, then I inform you, as a matter of law, that the act of Florence Baden in trying to persuade, induce or entice her sister Gertrude to make the interstate journey, would be the act and statement of the defendants, or the one of them who requested her to see and persuade Gertrude, and the defendants, or the one of them who made the request, if after being made, Florence acted upon it, would be liable and bound by the persuasion, inducement or enticement, that Florence offered to Gertrude. (Sub-division 12, Thirteenth Assignment, Tr. of Rec., p. 426; Fourteenth Assignment of Error, and each Sub-division, pp. 427, 428, Tr. of Rec.).

### PROPOSITION UNDER THIRD ASSIGNMENT OF ERROR.

It is error for the court to submit in its charge to the

jury any issue not fairly and fully raised by both the pleading and the evidence.

## STATEMENT UNDER ABOVE ASSIGNMENT AND PROPOSITION.

The defendant here adopts all of the statement set out under the Second Assignment, and in addition thereto, quotes the following from the Transcript of Record: (p. 155, Tr. of Rec.).

"Q. When your sister came out there to get you about 6 o'clock you were just finishing cleaning the kitchen and your aunt was away and she wanted you to quit everything right then and there and leave your clothes and come to Beaumont, or asked you if you wanted to come?

"A. She said to me, come up and see what the lady

wanted.

"Q. She told you a lady wanted you to go to Beaumont?

"A. Yes, sir, she didn't try to persuade me.

"Q. Did anyone persuade you to come?

"A. It was almost persuasion after I met those people.

"Q. You went at your sisters suggestion, of your own free will?

"A. No, sir, I was almost persuaded to go by Miss Effie Hoke. I went up there to see what she wanted at the saloon."

From page 102, the testimony of Florence Baden we quote the following:

"Q. You changed your name because you were coming to Beaumont, without having any suspicion that Effie Hoke was running an improper place?

"A. I did not have any idea of coming over here until I went to drinking beer and mixed drinks. I didn't care

then.

The indictment does not charge the defendants with having persuaded and enticed Gertrude Baden to leave New Orleans, through their agent, Florence Baden. (See Indictment, Tr., p. 1).

#### ARGUMENT.

There is no pleading or evidence in the record warranting the court to instruct the jury to convict if they should believe "Florence persuaded Gertrude to come to Beaumont, and in so doing she was acting as defendant's agent."

Gertrude repeatedly denied that Florence "persuaded" her to come. All she claims that Florence did was to inform her that a woman at Economide's place wanted to see her. Nobody persuaded her at Economide's place, or at Pauline's place. She came to Beaumont because her sisters were coming. The court, in view of this testimony, should at least, have instructed a verdict of not guilty in so far as the count charging them with persuading Gertrude is concerned.

To persuade is to influence one's mind by argument or reason. The mere act of Florence telling Gertrude that a woman at Economide's place wanted to see her has been construed by the court as equivalent to "influencing her mind by argument or reason to take an interstate journey for an immoral purpose." On page 156 in the testimony of Gertrude, we find the following question and answer:

"Q. You left the house and went to the saloon with the intention of going to Beaumont?

"I had no intention of going at all.

"Q. You went down to the saloon out of curiosity to find out what the woman wanted?

"A. Yes, sir, I went to find what she wanted."

There is no evidence that Florence spoke a word to her on her way to the saloon or after her arrival at the saloon, or at Pauline's, and this absence of evidence should acquit the defendants of having prevailed upon Gertrude's mind by argument or reason to take this interstate journey for an immoral purpose through the agency of Florence, the court having already acquitted them of having persuaded Gertrude themselves, for when the court charged the jury if they believed Florence persuad-

ed Gertrude and in doing so she acted as the agent of defendants, that defendants would be guilty, it is conclusive proof that the court's own mind was convinced that neither Effie Hoke nor Economides said or did anything that could possibly be construed into an act of persuading Gertrude.

## DEFENDANT HOKE'S FOURTH ASSIGNMENT OF ERROR.

The court erred in failing and refusing to give defendants specially requested charges, and in failing and refusing to embody the matters therein set forth in its maincharge, in view of the fact that said special charges called the same to court's attention, said special charges being as follows, to-wit:

- "Unless you believe from the evidence beyond a reasonable doubt that the defendants knowingly and feloniously persuaded, induced, coerced, or caused to be persuaded, enticed, coerced, or assisted in persuading, inducing, enticing or coercing the said girls or either of them, and unless you further believe from the evidence beyond a reasonable doubt that such persuasion, inducing, enticing or coercing was the cause of their going from New Orleans to Beaumont for immoral purposes. and unless you further believe from the evidence beyond a reasonable doubt that defendants procured a ticket, or caused the same to be procured, and that the procuring of such ticket and the furnishing of the money therefor was for the purpose of inducing them to go to Beaumont for immoral purposes, then you must acquit the defendant
- 2. "If you believe from the evidence that the defendant Effie Hoke persuaded the said girls or either of them to come to Beaumont, and purchased a railroad ticket for them or either of them, or if you believe that she did either of said things, then you will acquit her unless you Niso further believe that they, the girls, came by reason Indruch persuasion, and in this connection you are also

instructed that if they came by reason of their own desire and will to do so then you will acquit them, even if you should also believe that Effie Hoke persuaded them and furnished a ticket, or either persuaded or furnished a ticket.

- 3. "And if you believe from the evidence that said girls came by reason of their own will, then you will acquit them, even if you should also believe that the defendant Economides persuaded them to come, if you also believe that their coming to Texas was by reason of their own desires to come and not by reason of such persuasion.
- 4. "If you believe the defendant Effie Hoke loaned the money to the three girls in question, or either of them, with which they procured transportation to Texas, yet if you shall further believe that she loaned said money to them at their request and solicitation, or at the request and solicitation of either of said girls, or in so doing she wished simply to comply with their desires, and did not loan nor give said money to them for the purpose of persuading or inducing them to come to Beaumont against their wills, then you will acquit the defendant Effie Hoke.
- 5. Because the evidence shows that the three Baden girls were poor; that while they denied being public prostitutes, they admit that they had lost their virtue in New Orleans; that they were frequenting wine rooms and working only part of the time, and for meager wages, and that they knew their former friend and associate Ouida Landry was then in Beaumont; that the earnings of lewd women were much greater in Beaumont than in New Orleans; that New Orleans was over-run with lewd women, and that they might have desired, and probably did desire to leave New Orleans and come to Beaumont to take up their abode; and the testimony of Effie Hoke was that they the Baden girls themselves, suggested the idea of coming to Beaumont, and that they tried to borrow money from her to enable them to make the trip, which she re-

fused to loan them, but later while in a state of intoxication, as shown by the government's own witnesses, she may have given them the money without having in view the idea of thereby inducing them to take the journey, or without having persuaded them to do it, and this phase of the case should have been submitted to the jury, i. e., that if it was their own desire to take the trip, if the idea to do so originated with them, if the money to do so was given by the defendant at their request without any object or intent on her part to aid or induce them to take the trip, then the defendant was not guilty of any infraction of the statute under which this indictment was drawn.

Because even though the defendant might have suggested to, or advised the said girls to take said interstate journey, yet if their taking said journey was not caused by said advice or suggestion, but because they themselves wanted to go, and they themselves had all ready conceived the idea of going, these defendants would not be guilty, and the evidence raises a strong probability that they had entertained the idea of leaving New Orleans and coming to Beaumont before meeting with the defendants on the occasion named. issue is raised by the evidence, and not only does the court fail to embody it in its main charge, but substantially states the converse thereof, i. e., that even if the girls desired and intended to go to Beaumont, yet if the defendants also persuaded them to go the defendants would be guilty-nowhere telling the jury that before the defendants could be found guilty the jury must believe that the persuasion or inducement on the part of the defendants was the moving cause of the girls leaving New Orleans and coming to Texas, or that it influenced them to do so, and nowhere does the court tell the jury in its charge that if the girls wanted to go, and did go of their own free will, and that the advice or persuasion on the part of the defendants had nothing to do with their previously formed desire and intention to make the trip, that the defendants in that view of the case would not be guilty, and the evidence fairly raises the issue that there was a pre-formed wish and intent on the part of the said Baden girls."

## PROPOSITION UNDER FOURTH ASSIGNMENT OF ERROR.

One cannot be guilty of inducing or persuading another to take an interstate journey for an immoral purpose when the idea and determination to do so originated with the person taking such journey, and the person charged with aiding or persuading did nothing more than to yield to a solicitation to lend the money—not knowing the purpose of the journey.

## SECOND PROPOSITION UNDER ABOVE ASSIGNMENT OF ERROR.

It is the duty of the court to charge on every phase of the case raised by the evidence and to charge affirmatively on all defensive matters..

## DEFENDANT HOKE'S FIFTH ASSIGNMENT OF ERROR.

The court erred in permitting Florence Baden alias Hays, one of the persons defendants are charged with having persuaded to take an interstate journey from New Orleans, La., to Beaumont, Texas, for an immoral purpose, to testify as a witness for the United States, over the objection of the defendants, as follows, to-wit:

1. "I stayed in Effie Hoke's house in Beaumont about two weeks after I arrived in Beaumont. I left her house one morning about 5 o'clock. I wanted to leave and Miss Effie had said if we tried to get out she would kill us, so I got up that morning while she was asleep. We wanted to go to Houston but did not get our clothes, so we could not go. We went down to some hotel here (meaning Beaumont), started to go, and a policeman

would not let us go. A fellow named Teddy arrested us. He took us to the hotel and then down to the jail at the court house. That all occurred right after we left as soon as we got upon the main street, it occurred about half an hour after we left. The man who arrested us was a policeman—he had a uniform on—there were two policemen that arrested us, one was called Teddy, I don't know the other one's name. Then we stayed down at the jail about an hour. When we got out of jail we went to the depot; then we tried to get our things and did not get them, and then we went to the Jefferson hotel and we were arrested again by two policemen whose names I do not know."

- 2. And in this connection the court also erred in permitting Gertrude Baden alias Hays, another one of the persons defendants are charged with having persuaded to take said journey for such purpose, to testify over the objection of the defendant as follows, to-wit:
- 3. "After we arrived in Beaumont, and when we would get out of debt to Effie Hoke she would buy clothes and say that we owed her that much more, and then she would tell us we would have to stay there (meaning at her house) until we paid her, and I had to follow the life of a common prostitute because I could not do otherwise."
- 4. And in this connection the court also erred in permitting Annette Baden alias Hays, another one of the persons defendants are charged with having persuaded to take said journey for said purpose, to testify as a witness for the United States over the objection of the defendant as follows, to-wit:
- 5. "After we arrived in Beaumont we stayed with Effie Hoke a week and a half and could not get out of debt. Peddlers would come along and she would buy us things, and we got in debt more and more and we never could get out of debt, so one morning we decided to pick up our clothes and go away. We packed up our clothes and one of my sisters got out in the morning and Ger trude did not get out. Ouida Landry and Florence got

out. They left the house about 5 o'clock and Paul came back for us, the balance of us, and Effie Hoke woke up, and Effie said to him 'You have taken Florence and Ouida, and now you have come for Annette and Gertrude' and she 'phoned for an officer and had him arrested, so the officer came and took Paul away. Effie came into my room and taken my clothes and Gertrude's and put them in a vacant room and locked them up. Effie Hoke told us she would keep our clothes until we paid her what we owed her . That afternoon Florence and Quida got out; she would not give me my hat or coat or anything, so I borrowed the maid's coat and went to the postoffice, and there I met Florence and Ouida, and was talking to them and was on my way to Effie's to stay with Gertrude, and an officer came up and said Miss Effie has got all three of you up for vagrancy, and he said you are under arrest. I 'phoned her (meaning Miss Effie Hoke) and asked her if it was so, that the marshal said I was under arrest, and that she had all three of us for vagrancy and she said yes."

- 6. Because such testimony was and is immaterial, incompetent and irrelevant to any issue in the case, beyond the mere fact that after the Baden girls arrived in Beaumont they followed the business of prostitution, which these defendants admitted and offered to admit, and to the proof of which they did not object.
- 7. Because said testimony, going further and beyond establishing the mere fact that they followed the business of prostitution after their arrival in Beaumont, and proving, as in fact it does prove, that defendant Effie Hoke enslaved them to a life of shame and degredation in a house of public prostitution in the city of Beaumont against their wills, is not only irrelevant and immaterial to any issue in this case, but is highly prejudicial to the rights of these defendants, and was and is a gratuitous invasion of such rights, and was and is calculated to, and in the light of the verdict did arouse the passions of the jury against these defendants, and was and is calculated to cause the jury, and in the light of the verdict did

cause the jury to convict these defendants on the charge of persuading said girls to leave New Orleans and go to Beaumont for an immoral purpose, more for the reason that the defendant, Effie Hoke, enslaved them in a house of prostitution in Beaumont against their wills, than for persuading them to leave New Orleans and take an interstate journey to Texas.

- 8. Because said testimony is hearsay, especially as to the defendant Economides, who was in New Orleans at the time of the transaction spoken of.
- 9. Because said testimony is a recital by the witnesses of what took place after the complete commission of the offense with which the defendants are charged.
- 10. Because said testimony, if it constitutes any offense, is one against the laws of Texas and not against the laws of the United States.
- 11. Because the allegations in the indictments do not put the defendants upon notice that such testimony as herein set out and objected to would be offered against them, and affords them no opportunity to rebut it.
- 12. Because proof of the matters herein set out occurring after the arrival of the witnesses in Beaumont, beyond the mere fact that they followed the business of prostitution, was and is not necessary to sustain the Government's case as charged in the indictment, and the only purpose which it could or did serve was to arouse the passions of the jury against the defendants, and to so blind them with prejudice against them that they the jury could not, and in the light of the verdict did not give them a fair and impartial trial upon the specific charge laid in the indictment.

And in this connection the court erred in failing and refusing to give the following specially requested instruction for the defendants, and since the matter was called to the court's attention by said specially requested charge, it erred in failing and refusing to embody the matters therein set forth and suggested, in its main charge; said specially requested charge being as follows, to-wit:

- 1. "You are further instructed that you cannot convict the defendant Economides for keeping a wine room in New Orleans, nor for any act he did, nor for any character of business he may have engaged in: and you are further instructed that you cannot consider such evidence except for the purpose of showing the situation of the parties and shedding light on the specific acts charged in the indictment herein, if in your opinion it does shed light upon the same, in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Economides did the acts charged in the indictment, then you will acquit the defendant notwithstanding you may disapprove of the business in which he is engaged in the City of New Orleans, and I further instruct you that you will not allow the fact that defendant is the keeper of a wine room frequented by public women or prostitutes to in any way influence you in passing upon the defendants guilt or innocence, except as herein charged.
- "And I further charge you that you cannot convict the defendant Effie Hoke for keeping a bawdy house in Beaumont, nor can you convict her for attempting to have the girls arrested for taking their clothes away without first paying the debt due the defendant, nor can you convict defendant Effie Hoke for any act or thing she did or may have done in the City of Beaumont. Texas, and you are further instructed that you cannot consider such evidence, except for the purpose of showing the situation of the parties and shedding light upon the specific act charged in the indictment herein, if in your opinion it does shed light upon the same, in other words, if you do not believe from the evidence beyond a reasonable doubt that defendant Effie Hoke did the acts charged in the indictment then you will acquit the defendant, notwithstanding you may disapprove of the business in which she is or was engaged in Beaumont; and I further instruct you that you will not allow the

fact that defendant Effie Hoke was the keeper of a bawdy house to in any way influence you in passing upon the defendant's guilt or innocence except as herein charged."

3. Because the court had allowed the United States District Attorney on his direct examination of the alleged injured parties whose names are set forth in the indictment, viz: Florence, Gertrude and Annette Baden, alias Hays, over the objection of defendants to prove that after their arrival in the defendant Effie Hoke's house in Beaumont, she detained and enslaved them in a house of public prostitution and to a life of shame and degradation against their will, which facts not constituting any part of the proof necessary to sustain the government's case as alleged in the indictment, and the same being highly prejudicial and calculated to arouse the passion of the jury against the defendant, and in the light of the verdict did so arouse them, it was the duty of the court to withdraw from the consideration of the jury such evidence, in so far as it was within the power of the court to do so after the court had permitted the same to go before the jury.

The court erred in refusing to give to the jury the defendants' special charge in substance and effect as follows:

"All the testimony introduced by the government in this case for the purpose of showing or tending to show that subsequent to the arrival of the three girls inquestion in the City of Beaumont that Effie Hoke did for the purpose of detaining them in her house, purchase clothing and other articles not needed or desired by them and thereby kept them in her debt is hereby withdrawn from you and you will not consider said testimony or any part thereof for any purpose whatever," because:

(1). The same is incompetent, irrelevant, and immaterial in that it does not constitute any part of the proof of the government's case as charged in the indictment, beyond the mere fact that they practiced prostitution

after their arrival in Beaumont which was proved withobjection on the part of defendants;

- (2). Such testimony was highly prejudicial to these defindants, was acculated to and did inflame the minds of the jury against them, and because of proof of the enslavement of said girls after their arrival in Beaumont, tended and did in fact cause the jury to lean most strongly against them and largely contributed to their conviction;
- (3). Such testimony could not in any manner bind defendant Economides, he not having been shown to have been present at such time, or in any manner a party to such enslavement.

In this connection the court further erred in not covering the matter referred to in said special charge as hereinbefore set out in said main charge, especially in view of the fact that said special requested charge called the matter to the court's attention. (See p. 416, Tr. of Rec., Bill of Exception No. 9, p. 379; Bill of Exception No. 7, p. 375; Bill of Exception No. 4, p. 367).

## PROPOSITION UNDER FIFTH ASSIGNMENT OF ERROR.

It is reversible errors to admit evidence, not constituting any part of the proof of the offense alleged in the indictment and calculated only to arouse the passion and the prejudice of the jury against the defendants.

The above assignment contains a correct statement of the facts, being the same found in the Bills of Exceptions reserved by the defendants. (See Bill of Exceptions No. 9, p. 379; Bill of Exception No. 7, p. 375; Bill of Exception No. 4, p. 367).

#### ARGUMENT.

The offense with which defendants are charged is that they persuaded three girls to take an interstate journev from New Orleans, La., to Beaumont, Texas, for the purpose of prostitution, an offense which was completed in all its essentials the moment the girls alighted from the train at Beaumont and before they ever set foot in Effie Hoke's house. It was not necessary for the government to prove that they engaged in the business of prostitution after their arrival in Beaumont. Granted however, for the sake of argument only, that it was necessary to make such proof, the government did prove it without objection from the defendants, in fact, the defendants offered to and did admit such fact. But the government, not content with making proof that the girls engaged in prostitution after their arrival in Beaumont, Texas, not content with defendant's admission, and offer to admit such fact, were permitted by the court, over the strenuous and repeated objections of defendants, to prove that after their arrival in Beaumont they were ENSLAVED by defendant Hoke against their wills by every trick and device to a life of prostitution; that when at last, unable longer to endure the degraded and degrading life they clandestinely left defendant's premises. she caused them to be hunted down by policemen, arrested and detained within the four walls of a prison on a charge of vagrancy.

We ask this court:

Was such proof necessary?

Did it constitute any part of the proof of the government's case as alleged in the indictment?

Was it not a gratutious, flagrant invasion of the rights of defendants?

Was not such evidence, undisputed, and bolstered up by the testimony of police officers, calculated to arouse the passions of the jury?

If this testimony, of which we complain, going far beyond the mere fact that the girls engaged in prostitution after their arrival in Beaumont, related to matters occurring after the completion of the offense charged and constituted no part of the proof of the government's case, then it was immaterial, inadmissible, incompetent, and if added to its immateriality and inadmissibility, it was also inflamatory, and such as would arouse the passions of the jury, then the defendants have not had that fair and impartial trial contemplated by law.

Where testimony is wrongfully admitted, and it is of a nature calculated to arouse the passions and prejudice of the jury, the legal presumption is always that it did have such effect.

Would the mind of the jury, warped by prejudice and aflame with passion against a defendant, stop to consider contradictions in the testimony of the prosecuting witnesses in passing on their credibility, such as the following:

Testimony of Annette Baden.

(Page 47).

"Q. Did you stay in New Orleans at any time without working for any one?

"A. Yes, sir, I stayed with my aunt.

"Q. What is your aunt's name?

"A. Mandy Baden.

(Page48).

"Q. Where does she live?

"A. On Tulane Avenue.

"Q. Any other place. Think for a long time and see if you can think of your aunt's address?

"A. I cannot think of the address right now, it is on Tulane and Banks.

"Q. How long did you live there?

Testimony of Florence Ba den.

(Page 106).

"Q. You had quite an elaborate spread?

"A. Yes, sir, and my aunt was in there at the time.

"Q. What is her name? "A. Branch.

"Q. What is her hus-

"A. Jack Wolfe.

"Q. What is her first name?

"A. Branch. She is married again now.

"Q. What was her name then?

"A. Wolfe.

"Q. She is married again now and her name is Branch?

"A. Yes, sir.

"Q. Then your aunt Mrs.

months.

"O. What does your aunt's husband do?

"A. He is a carpenter.

"O. What is his name? "A. J. G. Baden-John

Baden.

"Q. What is his middle namel

"Al John Gauley.

How old a man is hel

"A. About 26.

"Q. How long has Mr. Baden lived in New Orleans?

"A. He moved there about three years ago from

Tennessee.

"Q. You didn't like to stay at Baden's house because you could not sport around and stay up until two or three o'clock in the morning and go to assignation houses?

"A. No, sir, because sister Gertrude wanted to stay there, and I knew it would be too much for both of us to impose on my aunt

and I left.

"A. I guess about three . Wolfe was in there at the time?

> 44 A. Yes, sir.

"Q. How many aunts have you in New Orleans?

"A. Three, one is Branch and the other two are my fathers brother's There are two named Baden. He had two brothers married.

"Q. Your father's Brother's wives?

"A. Yes, sir, we have two uncles there.

(Page 106).

"Q. What is there names?

"A. Baden.

"Q. One is Branch and the other two are Baden?

"A. Yes, sir.

"Q. You have two aunt Badens 7

"A. Yes, sir.

"Q. Where does Mrs. Branch live!

"A. On State Street, 608 State Street and the corner of Patton.

"Q. Where does the other aunt live?

"A. On Dupree Street.

"Q. Why does it take you so long to tell?

"A. I have to think of it. She boards on Dupree.

(Page 107).

"Q. Whereabouts on Dupree Street?

"A. That is a long Street, 1108.

"Q. Which one of the Badens live at 1108 Dupree Street?

"A. Mrs. G. Baden.

"Q. Any other initials?

"A. That's all.

(Page 108).

"Q. Just G. Baden!

"A. Yes, sir.

"Q. Where does your other aunt live?

"A. She had just moved to town, I do not know where she lived then.

"Q. You don't know where she lived?

"A. She lived near Lafayette Square, she had just moved to town, and I did not go around my relatives, not all of them.

"Q. What is her name? What is your other aunt's name?

"A. Baden.

"Q. What is her other name?

"AL C. Baden.

"Q. How old is Mrs. C. Baden?

"A. She is 24.

"Q. How old is Mrs. G. Baden?

"A. She is 30 something.
"Q. What does her hus-

band do!

"A. He is a whiskey drummer.

"Q. Mrs. G. Baden's husband?

"A. Yes, sir.

"Q. He is a whiskey drummer?

"A. Yes, sir.

"Q. What are his initials, Mrs. G. Baden's husband's initials?

"A. His name is G.

"Q. Is that all?

"A. Yes, sir, George.

"Q. What is the name of the husband of Mrs. C. Baden?

"A. Charles? (Page 108).

"Q. What does he do?

"A. He is a saloon man.

"Q. Are you not mistaken and is it not a fact you have only one aunt in New Orleans, and her name is J. G. and her husband is a carpenter?

"A. He is a bartender and carpenter, he can do either

one.

"Q. You are sure his name is Charles?

"A. Yes, sir.

"Q. He is not following the carpenter's trade, is he?

"A. I don't know what he

is doing.

"Q. Is he following the business of a bartender or the business of a carpenter? Mr. Ownby:—We object as immaterial.

Objection sustained.

Testimony of Gertrude Baden.

(Page 142).

"Q. How many Aunts have you in New Orleans?

"A. Two.

"Q. What are their names?

"A. One is Branch and the other is the same as ours, Baden.

"Q. What does Mrs. Branch's husband do?

"A. I don't know. My other uncle works on the rail-road somewhere.

"Q. You mean Mr. Baden?

"A. Yes, sir.

"Q. He works for the Railroad Company?

"A. Yes, sir.

"Q. What is his name?

"A. J. G. Baden.

(Page 144).

"Q. You are sure you never had any relatives living in New Orleans except the two aunts you have named?

"A. That's all I remember living there.

(Page 145).

"Q. Have you more than one aunt by the name of Baden!

"A. I have some in Covington, that is the only one in New Orleans.

"Q. Is it possible you could have forgotten your other aunt?

"A. I have no other aunt there by the name of Baden.

"Q. You have only one aunt there by the name of Baden?

"A. Yes, sir.

(Page 150).

"Q. Did you go and get your suit case before you left?

"A. No, sir, I did not bring a thing with me.

Testimony of Annette Baden.

(Page 63).

"Q. I understand you to say that you stayed at Economide's and drank mixed drinks until you got in the taxicab and then went to the depot?

"A. Yes, sir.

"Q. Where did you get

the suit case from?

"A. I sent for my suit case Sunday afternoon, it was too late to go to my boarding house, and I sent my suit case down to Anna's and I went to get my suit case Monday evening when I passed Economide's. I had started to the house to get it when I passed Economide's. I went to the theatre Sunday evening.

"Q. You got to the city

Sunday evening?

"A. Yes, sir.

"Q. Instead of going home you went to the theatre?

"A. Yes, sir.

(Page 64).

"Q. You had been out to visit your aunt in the country?

"A. Yes, sir.

"Q. Who did you go to the theatre with, did you go with Ouida? Testimony of Florence Baden.

(Page 80).

"Q. When did you come to Beaumont?

"A. About the Fourteenth of November.

"Q. Where were you living prior to that time?

"A. I was living in New Orleans.

"Q. Do you remember the day you left New Orleans?

"A. Yes, sir.

"Q. Where had you been the week before that?

"A. At Pass Christian.

"Q. Who with?

"A. My sister Annette.

"Q. When did you take the name of Hays?

"A. When I came to Beaumont.

"Q. When did you decide to take that name?

"A. In New Orleans after we met Miss Effie and thought we were coming over here.

"Q. You had no idea in the world that Effie Hoke was running a bad place?

"At No, sir.

"Q. What was the object in changing your name?

"A. I did not want to go by the same name. Annette fell out with my aunt and she changed her name to Hays. "A. No, sir.

"Q. Did you go with

"A. No, sir, I went with Florence.

"Q. Did your sister Florence meet you at the train that night?

"A. Yes, sir.

"Q. What time did the train come in?

"A. Eight o'clock.

"Q. Did you telephone her to meet you?

"A. Yes, sir, I 'phoned her and told her I was coming back and to meet me at the train.

"Q. Who suggested going to the theatre?

"A. I did, on the train. "Q. Was she on the train

with you?

"A. No, sir, I had a friend on the train with me from this town.

"Q. After you went to the theatre you went to the wine room and had lunch?

"A. No, sir, we left the theatre and went to the boarding house, a block from Economide's and stayed there, sister Florence and I.

(Page 66).

"Q. When you got back from the country were you staying at Mrs. Grinages'.

"A. Yes, sir.

(Page 103).

"Q. You came back to New Orleans on the same train that Annette came on, you and Annette came together?

"A. Yes, sir.

"Q. On the Sunday preceding the Monday you came to Beaumont.

"A. Yes, sir.

"Q. You had been to the country?

"A. Yes, sir.

"Q. Who had you visited out there?

"A. My aunt.

"Q. You came back to New Orleans that evening about 8 o'clock?

"A. No, sir, I came in

Wednesday.

"Q. You didn't come in together?

"A. No, sir.

"Q. Were you on the train with Annette?

"A. No, sir, I came Wednesday and she came Sunday night.

"Q. Did you meet her

at the train?

"A. Yes, sir.

"Q. How came you to me to meet her.

"A. She wrote and told mee to meet her.

"Q. Did you get a letter from her?

"Q. You tell the jury you were at her house in November, 1910†

"A. Yes, sir.

(Page 67).

"Q. Where did you have supper after the theatre Sunday night?

"A. We did not have

supper.

(Page 69).

"Q. When you got in the taxicab and went to Pauline's place and to the depot, you went by Anna's and got your grip?

"A. Yes, sir.

"Q. Where did Florence go to get her grip?

"A. She did not have any

grip.

"Q. Gertrude did not not have a grip?

"A. No, sir.

"Q. You were the only one that had a suit case?
"A. Yes, sir."

"A. Yes, sir, I got a letter.

(Page 104).

"Q. You and Annette were not living at the same place at that time?

"A. Yes, sir.

"Q. What place was it?
"A. We lived at Mrs.
Grinages's.

"Were you living there

at that time?

"A. Yes, sir.
"Q. November, 1910?

"A. Yes, sir.

"Q. You left Mrs. Grinage's house that evening and went to the train and met your sister?

"A. Yes, sir.

"Q. Where did you go af-

ter you met her?

"A. I met her and went down on Church Street and St. Charles to this other room.

"Q. Where did you go

tof

"A. To Church Street to a boarding house; it was too late to go to Mrs. Grinage's.

"Q. Who kept the place

you went to?

"A. All I know is two sisters, Maggie and Eliza.

"Q. What time that evening did you go there?

"A. It was late; we went and got supper. A. C. To a State City and the

"Q. You and your sisterf

"A. Yes, sir.

"Q. Where did you and your sister get supper that night?

"A. At Farbacker's.

"Q. What time of night was that?

"A. The train came in at 9:30 or 10 o'clock.

"O. You went to Farbacker's?

"A. Yes, sir.

"Q. You and your sister and not another person?

"A. Yes, sir.

"Q. Is it a cheap place or an expensive place!

"A. The best restaurant in New Orleans.

"Q. The most expensive in New Orleans?

"A. Yes, sir.

"Q. You were working girlsf

"A. Yes, sir.

"Q. How much were you getting a week?

"A. Eight dollars.

"Q. And then after you had supper where did you gol

"A. It was then near 12

o'clock.

"Q. It took you from 10 o'clock to 12 o'clock to get your supperf

"A. Yes, sir, some of my friends came there.

(Page 120).

"Q. When you say you met your sister at the train and that the train did not come in until 9:30 or 10 o'clock and went to the restaurant and stayed till 12, and went to bed at a place run by Eliza and Maggie, are you not mistaken?

"A. No. sir.

"Q. I asked you if she went to the theatre the night she came from the country?

"A. No, sir.

(Page 125).

"Q. You left New Orleans that night with a suit case or grip containing clothes?

"A. Yes, sir, we did, each of us had a suit case.

"Q. I want to give you a chance to correct this if you want to. Do I understand you to tell the jury and are you positive that each of you had a suit case when you left New Orleans Monday night to come to Beaumont?

"A. Yes, sir.

(Page 116).

"Q. You were in New Orleans just five months?

"A. I was there off and on since 1907. "Q. What did you do the balance of your time?

"A. I was staying with my people.

"Q. Tell us who you

stayed with.

"A. With my grand-mother and my other aunts.

"Q. You have only accounted for five months of your time in New Orleans, beginning with 1907.

"A. I stayed around from

one to the other.

"Q. Is it not a fact that the reason you make that statement is because you were in a sporting house?

"A. No, sir, I was not.
"Q. And want to conceal
that fact from the jury?

"A. No. sir.

"Q. Tell the jury where you stayed the balance of your time in New Orleans?

"A. I was with my aunts and grand-mother.

Testimony of Mrs. J. R. Grinage for defendants. (Page 166-167).

- "Q. Do you know Annette, Florence and Gertrude Baden?
  - "A. Yes, sir.
  - "Q. Did those girls ever stop at your house?
  - "A. Yes, sir.
  - "Q. Do you remember when that was?
  - "A. That was in July some time.
  - "Q. Did they ever stop at any other time in your house?

"A. No, sir.

"Q. Were they in your house in October or November,

"A. No. sir.

"Q. The only time they stopped in your house was the first three weeks in July, 1910?

"A. Yes, sir."

We believed the alleged injured girls were prostitutes in New Orleans. We tried to make them admit facts from which the jury might draw such conclusion, which would bear strongly on the probability that they came to Beaumont, seeking greener pastures, of their own free will, without any persuasion on the part of the defendants.

On the other hand, they denied they were prostitutes before coming to Beaumont; and their motive for concealing the names of the keepers of their stopping places and the location thereof, was the knowledge that the character of such places was bad and that their characters would be unerringly judged accordingly. For this reason, the inquiry as to where they lived, and their answers became material.

They concealed, and endeavored to conceal their former mode of life, and to this end it became necessary to avoid divulging the names of the keepers of the houses and the location thereof, in which they plied their vocation. Questioned, out of the presence of each other. about where they lived in New Orleans and with whom November. 1910. when thev from 1907 until invented ingenuity to Beaumont. their came shown "aunts." (as The fact. their testimony quoted above), that they did not tell the same story as to the number of their aunts, the street and number of their houses, their names and the names and occupations of their aunt's husbands, and the length of time they stayed with each, and where they stayed when not at one of the aunt's houses, is proof of the falsity of the "aunt" story and from this fact the jury could have deduced the further fact that the motive for such falsehood was to keep from disclosing their true status in New Orleans, and the only inference we can draw from the jury's failure to draw this conclusion, and to acquit, is that they were so enraged against the defendants by reason of the evidence of their enslavement to a life of shame after their arrival in Beaumont that they could not and did not give all the evidence calm and dispassionate consideration. The jury might otherwise have considered, as bearing on their credibility the wide variance between the testimony of Florence and Annette, as to what they did and where they went the night before meeting Effie Hoke, as well as the variance between their testimony and that of Mrs. Grinage.

How could the jury be expected to draw distinctions between proof of the act charged in the indictment, and those things which constituted no part of such proof when the court did not. The court let it all in and the jury considered it. The jury convicted defendants for enslaving these girls in Beaumont on an indictment which charged them with inducing them to come to Beaumont.

# DEFENDANT HOKE'S SIXTH ASSIGNMENT OF ERROR.

The court erred in refusing to permit the defendant to ask, and the witness Florence Baden alias Hays, to answer the following question:

"Q. Is it not a fact that when you arrived in Beaumont you were treated by a Beaumont physician for a venereal desease which you had contracted in New Orleans!"

Said witness at the time being a witness for the government and was then and there being cross examined by defendants.

And in this connection the court erred further in refusing to permit the defendants to prove by Dr. J. H. Reagan, a practicing physician in Beaumont, that in the month of November, 1910, and within a day or so after the arrival of the witness Florence Baden in Beaumont • • he treated the said Florence Baden for a veneral disease.

Because said testimony offered by defendants was material and relevant in this: If the witness Florence Baden had denied that she had contracted a venereal disease in New Orleans, for which she was treated after her arrival in Beaumont, the defendants could and would have contradicted her by Dr. Reagan, or if she had admitted it, it would have been a circumstance tending to establish the fact that she was a common prostitute in New Orleans • • • a fact from which the jury could and would have concluded that she came to Beaumont by reason of her own free will and desire and not because of any persuasion, and this is especially true because it was established by the evidence in this case beyond dispute that the earning power and the compensation of public prostitutes in Beaumont is much greater than in New Orleans." (Pages 420-421, Tr. of Rec.; see Bill of Exceptions No. 6, p. 373).

And in this connection, the court further erred in refusing to permit the witness Annette Baden, a witness offered on behalf of the United States, one of the persons defendants are charged with having persuaded to take the interstate journey described in the indictment, while upon cross examination by the defendants, to answer the following question:

"Q. I will ask you if it is not a fact that you and Ouida Landry in the City of New Orleans, prior to coming to Beaumont, were not engaged in the business of soliciting the patronage of men for the purpose of prostitution, and is it not a fact that you followed that vocation around the passenger depots and on the streets?

Because said testimony would have proved, or tended to prove, that Annette Baden was a public prostitute in New Orleans before she came to Beaumont, a fact from which the jury could have inferred, that she was not persuaded or coerced to come to Beaumont for an immoral purpose but that she did so of her own free will. (Eighth Assignment, p. 421, Tr. of Rec.; see Bill of Exception No. 3, p. 364).

And in this connection, the court erred in refusing to permit the witness Ouida Landry, a witness for the United States, on her cross examination by defendants, to answer questions propounded by defendants, calculated to elicit from her the fact that prior to coming to Beaumont she was engaged in the business of a common prostitute, and had been so engaged for several years in the City of New Orleans; that in said city she was a street walker; that she was an inmate of a house of prostitution kept by one Pauline Wilson, and one kept by a woman named Anna and one kept by a woman named May Derby.

Said testimony was admissible, relevant and material in this: "That while the witnesses. Florence, Gertrude and Arnette Baden denied that they were public prostitutes in New Orleans, they admitted that they were the friends and associates of the said Ouida Landry in said city prior to the coming to Beaumont; that Ouida Landry came to Beaumont shortly before they did, and that before coming to Beaumont they knew that Quida Landry was in the City of Beaumont-facts from which the jury would have been authorized to conclude that the said Baden girls were also prostitutes in New Orleans prior to coming to Beaumont, a fact from which they could have drawn the further conclusions that they came of their own free will and were not persuaded or coerced to come." (Ninth Assignment of Error, pp. 421-422; see Bill of Exception No. 5, p. 370).

### PROPOSITION UNDER ABOVE ASSIGNMENT OF ERROR.

Any testimony is admissible which sheds, or tends to shed light upon any issue in the case.

#### STATEMENT UNDER FOREGOING ASSIGNMENT AND PROPOSITION.

Annette Baden claimed that while she lived in New

Orleans for a period of two years she was a working girl. (pp. 17-18, Tr. of Rec.). She claimed that when she left New Orleans she did not know or understand that she was going to a house of prostitution in Beaumont. (p. 27, 12th question, Tr. of Rec.). She admitted that she knew Ouida Landry in New Orleans. (page 54).

Florence Baden claimed to be a working girl. (page 80).

Page 89. Questioned by United States District Attorney:

"Q. Were you a virtuous woman when you left New Orleans?

"A. Yes, sir.

"Q. At that time had you ever lived in a house of prostitution?

"A. No, sir.

"Q. Were you working in a moving picture show?

"A. Yes, sir.

"Q. Did you understand me, you were not a virtuous girl when you left New Orleans?

"A. No, sir.

"Q. Since you have been in Beaumont you have been a public prostitute?

"A. Yes, sir.

"Q. You are a public prostitute now?

"A. Yes, sir."

She claimed that when she left New Orleans she did not know she was going to a sporting house in Beaumont, (page 86), and that when she got to Beaumont and found she was in a sporting house she wanted to leave an d was not permitted to do so. (page 87). She admitted that she knew Ouida Landry in New Orleans but denied that Ouida was a sporting girl there, (page 122).

Ouida Landry denie d that she followed the business of a prostitute in New Orleans. (Page 193, Tr. of Rec.).

By reference to Bill of Exception No. 3 on page 364 and Bill of Exception No. 6, on page 373 of the Transcript of Record, it will be seen that the District Attorney object-

ed to the questions on the part of defendants to prove that the girls in question were prostitutes in New Orleans before coming to Beaumont, on the ground that such inquiry was wholly immaterial, and this objection being sustained by the court, the defendants were shut off from proof of all facts or circumstances that proved or tended to prove that they were prostitutes in New Orleans.

Now, the question is, was such inquiry material? If the defendants had been allowed to ask Florence if she had a venereal disease when she arrived in Beaumont; if they had been allowed to ask both Florence and Annette, or either of them, if they associated with prostitutes: if they solicited men to acts of illicit intercourse at the depots in New Orleans: that they lived in, and frequented assignation houses; and if the defendants had been allowed to prove, by other witnesses, in the event the said girls answered said questions in the negative, that they did live in and frequent assignation houses; that they were street walkers; that they did solicit men at the denots: that they did live in and frequent assignation houses; that they associated with prosititutes and that they had the reputation of being public prosititutes in New Orleans prior to coming to Beaumont, not only would it have borne on their credibility as witnesses, but if the jury had believed from such proof that they were prostitutes at and prior to the time they claim to have been persuaded to come to Beaumont, from this fact, in connection with the further fact that prostitutes received a higher rate of pay in Beaumont than in New Orleans; that their friend Ouida Landry was then in Beaumont, (a fact they probably and doubtless did know) the jury could have drawn the conclusion that these girls came to Beaumont of their own free will, without persuasion on the part of anyone. In this way, the testimony rejected by the court bore directly on the issue. If the alleged injured females came to Texas of their own free will, if the alleged acts of defendants were not the cause of their coming, then defendants would not be guilty.

Now, to determine the state of the girls' minds in this respect, their status in New Orleans and all the surrounding facts and circumstances was a most material matter of inquiry. Persuasion in this case—like malice in murder—a state of mind—can only be fairly determined from a knowledge of all the facts; and every fact or circumstance, that sheds, or tends to shed light upon it, is admissible.

The government was permitted to prove by the girls themselves that they were not prostitutes in New Orleans, drawing a distinction between prostitutes and girls who had been guilty of one or more acts of illicit intercourse with a "friend."

Was it not material for the defense to contradict their testimony; to show that in fact they were prostitutes in New Orleans?

We think so, for the reason stated.

When a woman denies that she was a prostitute the way and the only way, in the nature of things, to contradict her, and to prove that she was, in fact, a prostitute, is (a) by ascertaining her lodging place and its character and reputation, (b) by proving that she frequented certain houses and that such houses were places of assigntion, (c) by showing who she associated with, and the mode of life and reputation of such associates, (d) by her habits.

When the defendants undertook to prove by Ouida Landry herself on cross examination that she, Ouida, was an inmate of May Derby's and Pauline Wilson's houses in New Orleans, the court itself stopped the inquiry, as shown by the following quotation from page 193 of the record:

The Court: "I have excluded that. I don't think that line of inquiry admissible. I think the general statement the witness has made as to her vocation gives the jury an opportunity to weigh her testimony. I will not permit any other testimony along that line. I will give you a bill as to that."

Mr. Howth: "I will state what I expect to ask her. The defendant, Effie Hoke, while interrogating witness as to the different houses of assignation and prostitution in which she had lived as an inmate in New Orleans for several years before she came to New Orleans, or to Texas, I mean, was stopped by the court, and the court would not permit him to ask such questions, and for the purpose of taking a bill of exceptions to the court's ruling, defendant's counsel proposes to ask the witness Onida Landry if she was not an inmate of a house of prostitution in New Orleans before she came to Texas in November, 1910, to-wit: The House of Pauline Wilson, and if she did not there follow the vocation of a prostitute, and the court refused to permit counsel to ask the question or the witness to answer it, and counsel for the defendant. Effie Hoke, also proposed to ask the witness if she did not live in a house of prostitution run by a woman named Anna before she lived in the house of Pauline Wilson, and if she did not in that house follow the vocation of a prostitute, and the court would not permit counsel to ask the question or witness to answer it. Counsel for the defendant, Effie Hoke, also proposed to ask the witness if she did not live in a house of prostitution and there follow the business of a prostitute in place in New Orleans run by May Derby, and the court refused to permit counsel to ask the question or the witness to answer. And counsel also proposed to ask the witness if she was not a street walker in New Orleans for years. and if she did not frequent the depots and solicit men around the depots for the purpose of prostitution, and the court refused to permit counsel to ask the question or to permit the witness to answer the same. The defendant expected that witness would answer yes to these questions or if she did not answer yes, that it would then have laid the predicate to impeach this witness on her credibility and her truth and veracity by showing by other credible witnesses that she lived as an inmate of such places, and plied the vocation of a street walker and a public woman. all of which the court refused to permit to go before the jury, the object being to contradict her and to impeach

her credibility, and also for the purpose of showing the character of people with whom the witness Florence, Annette and Gertrude Baden associated while in New Orleans and previous to their coming to Texas, because it is admitted in the evidence that in New Orleans and prior to the time they came to Texas at the alleged instance of Effie Hoke that Florence Baden and her sisters and this witness, Ouida Landry, alias Patterson, and other aliases, were friends, associates and companions, and the defendant. Effie Hoke, also offers that testimony for the purpose of contradicting the witness Florence Baden, and Gertrude and Annette for the p urpose of showing that they came to Texas of their own free will and accord, the defendant contending, that if it can be shown that these witnesses were public prostitutes for hire in the City of New Orleans, the jury would have the right to infer from that fact that they came here of their own free will and accord, and that no persuasion, coercion or inducement on the part of the defendant. Effie Hoke was used, to all of which the defendant reserves a bill of exceptions.

Mr. Luzenberg: The defendant Economides also excepts."

The Court: "The testimony was excluded by the Court because the witness now upon the stand stated in answer to a question propounded to her by the court that she had. SINCE COMING TO BEAUMONT IN NOVEM-BER, 1910, and up to and including the present time, followed the vocation of a common public prostitute, the court being of the opinion that the testimony is admissible simply to effect the credibility of the witness, the court being of opinion that both the requirements of the law and public policy have been met when the witness has answered that she is a public prostitute, THE COURT BEING FURTHER OF THE OPINION THAT AS TO THE CHARACTER OF THE WITNESSES NAMED IN THE BILL OF INDICTMENT, THIS WOULD BE NO JUSTIFICATION OF THE DEFENDANTS' ACTION IF THE JURY SHOULD BELIEVE THAT SAID WIT- NESSES WERE PERSUADED OR INDUCED TO MAKE THE INTERSTATE TRIP FOR THE PURPOSE OF PUBLIC PROSTITUTION."

Mr. Lusenberg: "Does the court hold that we can not ask the witness any questions as to her manner of living before she came to Beaumont?"

The Court: "That is my ruling, that you can not go into specific acts after she has answered as she has."

Mr. Howth: "Will the court permit me to refer back to the bill of exceptions and make it perfectly clear so there will be no misunderstanding upon the part of the court as to what my bill is directed to! I dislike to irritate the court about the matter. From the general trend of the Court's remarks in overruling it, I fear the court is laboring under a misunderstanding as to my purpose I want to make the bill perfectly clear so there will be no misunderstanding on the part of the court. The court in sustaining the objection and replying to counsel, made the statement that he would not permit any inquiry as to specific acts or details in reference to her mode of life since she had come to Texas. The question which I wanted to ask the witness and which I proposed to ask her did not relate to specific instances of her life in Texas, or as to her vocation here atall, but it refers back to a prior time, and to the time in New Orleans prior to the time it is alleged that Effie Hoke persuaded the girls to come to Texas."

The Court: "You can prove by this or any other witness that the three Hays women mentioned in the bill of indictment were common prostitutes before they came to Texas, if you want to."

Mr. Howth: "She would probably deny that. I am trying to prove that fact by the witness by circumstances by showing that she herself lived in a house of assignation prior to coming to Texas."

The Court: "That would not be admissible. If you can prove by this witness that the Hays girls were prostitutes before coming to Texas, you can prove that. I don't think

you have the right to inquire into specific instances of this witness' life, since she has admitted that she was a prostitute. I will exclude the testimony."

Mr. Howth: "I want to prove where she lived in New Orleans prior to the time Effie was charged with this offense, for the purpose of connecting that with proof of the other fact that she and the Hays girls were intimate friends and were friends of Economides, and prove in that way that the Hays women were prostitutes. The court must know that we can prove any fact by circumstantial that we can prove by direct evidence."

The Court: That can go into your bill."

The court in qualifying the bill (p. 372) says:

"The court was of the opinion that the questions propounded tended to elicit particulars of the witness's life, which were not material as to her credibility, after she admitted that she was a public prostitute at the time of the trial and had been since she came to Beaumont. The court stated to counsel for defendants at the time that they would be permitted to prove by this witness or any other witness that the Baden girls were prostitutes before they come to Beaumont."

In ruling upon the admissibility of this evidence in the presence of the jury the court remarked, as follows:

"The court beingfurther of the opinion that as to the character of the witnesses named in the bill of indictment, this would be no justification of the defendants' action (meaning, proof that the Baden girls were prostitutes in New Orleans prior to coming to Beaumont) if the jury should believe that said witnesses were persuaded or induced to make the interstate trip for the purpose of public prostitution."

Now, while we agree with the court that proof that the Baden girls were prostitutes in New Orleans, would not justify the defendants if the jury believed they were persuaded by the defendants to make the trip, would not such proof have someweight with the jury in passing on the question of whether or not they were persuaded. The court erred in excluding such proof for all purposes but should have admitted the proof, not as a defensive matter in itself, not in justification of defendants' acts, but as bearing on the queston of persuasion...

If it was admissible to prove that the Baden girls were prostitutes before they come to Beaumont then it was competent to prove it by circumstantial as well as by direct evidence—and the proof rejected was certainly a circumstance, or at least a link in a chain of circumstances tending to prove such fact, nor can such proof be rightfully excluded on the ground that "the question propounded tended to elicit particulars of the witness' life"—The proof that Ouida Landry lived in an assignation house in New Orleans may be a "particular" of her life, but it also proves that she was a prostitute; and if she and the Baden girls were friends during such time, it also tends to prove that the Baden girls were prostitutes before coming to Beaumont.

It was proved that the earnings of lewd women in Beaumont is greater than the earnings of such women in New Orleans; that New Orleans is overrun with such women; that they often go hungry and ragged. It was proved that Ouida Landry preceded the Baden girls to Beaumont by several days. It was proved that the Baden girls and the Landry girl were acquaintances and friends in New Orleans—coupled with all these facts the defendant untertook to prove that the Landry girl was a prostitute prior to coming to Beaumont, as a circumstance from which the jury might deduce the further fact that the Baden girls were also prostitutes prior to coming to Beaumont. If this be not a logical conclusion then there is nothing in the century old adage that people are judged by the company they keep.

In qualifying the bill of exceptions (Bill No. 3, p. 365) reserved to its ruling in refusing to permit Annette Baden to answer the question as to whether she and Ouida Landry solicited men at the depots in New Orleans, the court says:

"The objection was sustained not only because it was immaterial and irrelevant but because the subject matter had been thoroughly gone over showing she was not a virtuous woman."

The District Attorney had these injured girls to deny that they were "prostitutes" but to admit that they were "not virtuous" priorto coming to Beaumont, but certainly, it cannot be argued that defendants should be shut off from proof that they were prostitutes merely because they admitted they were "not virtuous," especially since the prosecution drew such sharp distinction between the two conditions while before the jury, nor should defendant have been denied the right to make this proof because the witness had already been severely cross examined, nor because the subject matter had been thoroughly gone over showing she was not a virtuous woman. It was not claimed at the time of the trial that such question was objectionable on any ground except its alleged immateriality. It is not claimed that witness was permitted to answer the question either negatively or affirmatively, as she should have been required to do. so that if she answered in the affirmative such answer would establish the fact that she was a prostitute before coming to Beaumont; if she answered in the negative the defendants would then have had an opportunity to impeach her.

During the trial of this case, when the court interfered and would not allow the witness Ouida Landry to answer our question if she was not an inmate of a certain assignation house in New Orleans, before she come to Beaumont and before the Baden girls came to Beaumont, we protested to that court then, and we protest to this court nowthat such testimony was admissible as a circumstance tending to prove that the Baden girls were prostitutes before coming to Beaumont because of their association together in New Orleans; and that every fact or circumstance proving or tending to prove, or shedding light upon their true status and situation in New Orleans before coming to Beaumont should have been permitted to be offered in evidence before the jury to be by them con-

sidered in this case, i. e., whether the girls were persuaded to come to Beaumont or whether they came of their own free will. While it is as much an offense to entice or persuade a prostitute to take an interstate journey for the purpose of prostitution, yet it is not at all probable that a prostitute would need any persuasion to take such journey for such purpose.

We earnestly contend that the trial court committed an error against these defendants for which this court should reverse and remand this case, in excluding the evidence—circumstantial as it may be—that the Baden girls were prostitutes in New Orleans, because such evidence was admissible upon the question whether they were persuaded or coerced to take the journey or whether they did so of their own free will.

If these girls had been virgins, the government would have offered to prove it and the court would have admitted it as a circumstance to prove that there must have been persuasion to induce them to leave home and virtue to enter a life of deepest shame. On the other hand, we claim these girls were prostitutes in New Orleans, and that every fact and circumstance tending to prove it should have been admitted, to show that they were not persuaded or coerced; that there was on their part and intent and will, a motive and object to come to Beaumont, to follow the same business they had been following in New Orleans because of the greater rewards in Beaumont. If this court were called upon to pass upon this question as one of fact it would welcome an inquiry into all the surrounding facts and circumstances of the girls' lives in New Orleans, their habits, their associates, their lodging places, etc., and every "particular of their lives," as an aid to its determination and in fairness to these defendants, such "particulars" should have been permitted in this case. The court, during the trial, excluded all this evidence as immaterial, but after the trial-away from the excitement of the court room-and out of the presence of the jury-in qualifying the bill of exceptions says: It not only rejected the proof because it was

immaterial, but because it elicited "particulars" of the witness' life."

We asked the trial court then and we ask this court now

Is there any way to prove that a woman is a prostitute (when she denies the fact) except by showing "particulars of her life?" That the witness lived in a house of prostitution may be a "particular of her life," but it also proves that she is a prostitute. That she loitered about a depot and solicited men to have carnal knowledge of her for hire may be a "particular of her life," but it proves that she is a prostitute. That during the working hours of daylight he weers a leather apron; that his face is smutted; that he has been seen to hammer red-hot iron and work the handle of a bellows are "particulars" of his life, but it goes far toward proving that he is a blacksmith. How can you prove that she followed an outlawed vocation plied clandestinely, without showing "particulars of her life"-a disreputable lodging placeapproaching strangers at depots-living without visible means of support-walking the streets at unseemly hours. and other facts inconsistent with a life of virtue.

It is certainly a new doctrine which the court announces in this case that a fact may not be proven by circumstantial evidence.

Referring again to our third assignment of error, in which we complain of the court instructing the jury to convict if they believed Florence persuaded Gertrude as the agent of defendants, we suggest to this court that in this connection the trial court further erred in designating Florence as an accomplice, whose testimony should be corroborated.

We urge the unconstitutionality of the law under which the indictment was drawn and the conviction had this case, but in the event the court should hold the law constitutional, then we submit the case should be reversed and remanded for the errors herein assigned. The propositions herein stated are merely statements of fundamental principles of law and we deem it unnecessary to cite authorities.

Of Counsel for Defendant Effic Hoke.

BLAIN & HOWTH,
Attorneys for Defendant Effie Hoke,
Beaumont, Texas.

# In the Supreme Court of the United States

WRIT OF ERROR FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EAST-ERN DISTRICT OF TEXAS.

EFFIE HOKE AND BASILE ECONOMIDES,
Plaintiffs in Error

VS.

THE UNITED STATES OF AMERICA, Defendant in Error.

Brief and argument of the plaintiff in error, Basile Economides, by his counsel, Mr. Hal W. Greer.

## STATEMENT OF THE CASE.

By bill of indictment containing three counts, the Government brings this prosecution under the Act of June 25, 1910, known as the "White Slave Act" as contained in the published laws of the United States of 1910, and beginning on page 825. The indictment is drawn under sections 2, 3 and 4 of the Act, and it is unnecessary to consider the other sections.

These three sections read as follows:

"Sec. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in ob-

taining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.

"Sec.3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in interstate or foreign cimmerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and to be carried or transported as a passenger upon

the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or both at the discretion of the court.

"Sec. 4. That any person who shall knowingly persuade, induce, entice, or coerce any woman or girl under the age of eighteen years from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, with the purpose and intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution or debauchery. or any other immoral practice, and shall in furtherance of such purpose knowingly induce or cause her to go and to be carried or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment for a term not exceeding ten years, or by both such fine and imprisonment, in the discretion of the court."

Defendants (plaintiffs in error) filed motions to quash

the indictment on the following grounds:

#### First.

Because the Act of Congress of June 25th, 1910, commonly designated and known as the "White Slave Act," under which this indictment is drawn is in express violation of the Constitution of the United States, Art. IV, Sec. 2, in this: That one of the "privileges" of a citizen of a State is to travel into another State, and the "immunity" of protection from arrest in so doing, regardless of the intent or purpose of the traveler to give herself up to "debauchery" or prostitution or for any other immoral purpose after completing her journey; and another "privilege or immunity" of a citizen is to aid or assist her in obtaining such transportation, regard-

less of her purpose, intent, or object, and regardless of his purpose, intent, or object in so aiding her, or the pursuit of any occupation, whether moral or immoral, she may have upon the completion of her journey, and regardless of the purpose of the person aiding or asaisting her in obtaining such transportation.

#### Second.

Because among the powers reserved to the States individually is that of forbidding, regulating or controlling prostitution or debauchery of their female citizens, and of prescribing any rule or rules governing the morals or immoralities of their female citizens; and the Congress of the United States cannot constitutionally aid, regulate or interfere with any of the powers so reserved to the States individually, by thus indirectly denouncing as a felony the acts of aiding and assisting one citizen by another to travel interstate with the purpose, object, or intention that the citizens so traveling at the end of the journey should engage in prostitution or debanchery or other immoral practice.

#### Third.

Because the enumerated constitutional power granted to Congress, and conferred by the United States Constitution, Art. I, Sec. 8, subdivision 2, "to regulate Commerce " among the several States," does not embrace or include the power to regulate the acts after reaching her destination of any citizen who has traveled interstate, nor the disposition of any commodity in a State after it has reached its destination; in that in any case as soon as the interstate carriage is completed the power to control the passenger or the commodity ceases as a matter of "Commerce among the States."

#### Fourth.

Because Congress under its delegated power "to regulate commerce among the states," has no

power to make the intention or purpose of an interstate traveler, nor of any person aiding or assisting her to procure the transportation, upon reaching his or her destination, a condition precedent to his or her right to such interstate transportation where no treason against the General Government or some individual State is alleged in the indictment.

The court overruled and refused these motions, and defendants duly excepted as per their Bill of Exception No. 1, Rec. P. 13. (See also opinion of Trial Court, Fed. Rep).

Defendants further demurred to the indictment on the following grounds:

- "1. Because the matters and things set out and charged against him, the said Basile Economides, in each and every count thereof do not constitute an offense against the laws of the United States.
- "2. Because the matters and things in each and every count of said indictment against him, said Basile Economides, charged and set out to not constitute an offense cognizable in this Honorable Court, that said matters and things do not come within its powers and jurisdiction.
- "3. That it is not alleged and charged in the first count of the said indictment that the said Basile Economides did thereby knowingly cause or aid or assist in causing the said Annette Baden, alias Annette Hays, to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia.
- "4. That it is not alleged or charged in the second count of the said indictment that the said Basile Economides did thereby knowingly cause or aid or assist in causing the said Florence Baden, alias Florence Hays, to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce or any Territory or the District of Columbia.

"5. That it is not alleged or charged in the third count of said indictment that said Basile Economides did in furtherance of said purpose knowingly induce or cause the said Gertrude Baden, alias Gertrude Hays, a girl under the age of eighteen years to go and to be carreid or transported or transported as a passenger in interstate commerce upon the line or route of any common carrier or earriers.

"6. That the allegations in said indictment in each and every count thereof are so vague, general, and uncertain, as to afford no proper notice unto him, the said Basile Economides, to plead and prepare his defense."

The Court overruled these demurrers and defendants duly excepted as per their Bill of Exception No. 1, Rec. 14-16.

The trial resulted in a verdict of guilty against both defendants on all three counts in the indictment, and they were each duly sentenced by the Court to two years imprisonment in the penitentiary on each count, or a total aggregate of six years, for each defendant. Rec. 7-11. No fine was imposed.

Plaintiffs in error now bring the cause to this Court upon the questions of the unconstitutionality of the Act and upon the various assignments of error, propositions, statements and arguments contained in the following:

### BRIEF.

# SUBSTANCE OF FIRST ASSIGNMENT OF ERROR.

The Court erred in overruling and refusing the motions to quash the indictment herein on the constitutional grounds therein urged.

### FIRST PROPOSITION UNDER FIRST ASSIGNMENT OF ERROR.

The Act is contrary to and contravenes Art. IV, Sec. 2 of the Constitution in this: That though they are gen-

erally and justly deemed immoral, yet prostitutes, both male and female, are citizens of their respective States, with all the "privileges and immunities" possessed by any other citizen; and one of their "privileges" is to travel interstate; and so long as this privilege exists as a lawful right, it is the "privilege" and lawful right of any other citizen to aid and assist, persuade and entice, them to take the journey, regardless of their motive or purpose and ragardless of the motive and purpose of the one rendering the aid, as to what they shall do or intend to do at the end of their journey.

#### STATEMENT.

The charging part of the indictment is substantially in the language of the statute, the charge against the defendant Effie Hoke, being the first count that she "did on the 14th day of November, A. D. 1910, in the City of New Orleans and State of Louisiana unlawfully, feloniously and knowingly persuade, induce and intice one Annette Baden alias Annette Hays, a woman, to go from New Orleans, a city in the state of Louisiana to Beaumont, a city in the State of Texas, in interstate commerce for the purpose of prostitution, etc." And in the first count as to defendant Basile Economides, "did unlawfully, feloniously and knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Annette Baden, alias Annette Hays, a woman, to go in interstate commerce . . for the purpose of prostitution, as hereinafter set out, with the intent then and there and the purpose then and there on the part of the said Effie Hoke and on the part of him, the said Basile Economides, and with the intent and purpose then and there of each of them that the said Annette Baden, alias Annette Hays. should engage in the practice of prostitution in the said City of Beaumont, Texas, etc." The second count is the same except as to the prostitute's name who was induced to go, to-wit, Florence Baden, alias Florence Hays. The third count was the same except the name of the prostitute was Gertrude Baden, alias Gertrude Hays, and she was alleged to be a "girl under the age of eighteen years, etc." Rec. 1-6.

The undisputed testimony shows all three of the women were prostitutes in New Orleans many months before they went to Beaumont, and that they were sisters. Whether they themselves intended to practice prostitution upon their arrival in Beaumont was a controverted fact; but the Court held it was immaterial whether they were prostitutes before taking the journey, or whether they intended to practice prostitution upon completing their journey, and so charged the jury.

#### AUTHORITIES.

Constitution, Art. IV, Sec.2.

Paul vs. Virginia (8 Wall., 168) 19 L. C. Ed., 357.

United States vs. Harris (16 Otto, 629) 27 L. C. Ed., 290.

# ARGUMENT OF MR. HAL W. GREER, UNDER THE FOREGOING PROPOSITION.

It may be admitted that the original purpose of Art. IV, Sec. 2, was to prevent one State, or the citizens thereof, from discriminating against the citizens of other States, and to insure universal "privileges and immunities" to all citizens alike, thus making the intent of the Article to be a limitation upon the States individually; and in fact, all the decisions I have read were predicated upon that theory, as shown by the two cases cited above as well as the "Drummers Tax" cases more recently decided.

Notwithstanding all this, I still maintain that wherever the facts call it in question the limitation or restriction applies with just as much force to any act of Congress, in that the language of the article is broad enough to give it this scope, to-wit:

"The citizens of each state shall be entitled to all privileges and immunities of citizens in the several States."

If I am right in the contention that the article applies

as a forbidden restriction just as much to Congressional legislation, as to State enactments, these two questions logically arise, to-wit:

- 1. Is the right to travel interstate, a fundamental "privilege and immunity" of citizenship, regardless of the moral or immoral intent of the traveler at the end of his or her journey?
- 2. If it is, is it not true that it is a fundamental "privilege and immunity" of another citizen to "persuade, entice, and aid and assist," the traveler to take and make such interstate journey, regardless of the intention or purpose of the traveler, and regardless of the intention and purpose of the citizen rendering the aid, etc.

Should the Court determine both these questions affirmatively, then the Act is clearly void in that it contravenes and violates Art. IV, Sec. 2.

In discussing this phase of the subject, I hope it will not be deemed inappropriate for me to say that we are

fortunate in having tried this case before the Judge who, as member of Congress, was chiefly instrumental in passing the Act, in this: That in his eloquent debate and constitutional argument before Congress he thoroughly exposed the purpose of the bill; as Judge in deciding it to be constitutional, he has presented its constitutionality very forcefully. (See Congressional Record of January 19, 1910, for his speech as member of Congress, and Fed. Rep., p. 992 for his opinion as Judge). In neither his speech before Congress, or his opinion as Judge does he refer to or consider Art. IV, Sec. 2 of the Constitution as having any bearing upon this subject, though on the trial before him as Judge the question was raised both in the motion to quash the indictment as well as by extended argument.

In his speech in Congress he admitted negatively the three following propositions:

1. This "White Slave Act" does not in itself attempt to define or make a crime of prostitution. I add, for the obvious reason that this would be trenching upon the reserved, or police powers of the States individually.

- 2. That the Act does not forbid the carriage interstate of prostitutes, even though they be known as such. Probably the fact that they are citizens, regardless of their detestable immorality, furnishes the motive for this omission from the terms of the Act itself.
- 3. The Act does not prohibit the carriage interstate of a woman or girl who intends to ply the avocation of prostitution at the end of her journey, where she furnishes her own money or means of transportation. As I construe it, the omission in all three of these admissions is due to the fact that Congress realized that it did not have the power to include them, either because they would abrogate Art. IV, Sec. 2, or the reserved powers of the States individually. In either event, the basic or fundamental principle of right involved was that of the the citizen to travel interstate regardless of his or her morality, or immorality, as a "privilege and immunity."

These three admissions leave the deduction that to so travel was and is the exercise of a lawful right or "priv-

ilege" and therefore these questions arise:

1. Has Congress the power to define and punish as a crime the acts of one who "aids and assists" another to do a lawful thing?

2. If so, has not Congress put itself in the attitude of superseding its power " "to regulate commerce between the States" by defining and punishing as a crime the intention of a citizen who is neither interfering with or attempting to evade any rule of interstate commerce?

3. Conceding the legal right of the prostitute to take the interstate journey, does this or not necessarily imply that any other person has the lawful right to entice, per-

suade, aid and assist her in taking such journey?

It must be kept in mind that this is not a case of duress, or coercion, or seduction, or inducing innocent girls into lives of shame; it is just simply a matter of aiding or prevailing upon prostitutes to go from one State to another to there engage in their detestable occupation.

Both in the Congressional argument as well as in his judicial opinion the learned Judge below proceeds upon the theory that such women are mere chattels or commodities, deprived of their liberty and practically held in slavery. I do not think this position is justifiable at all under the record in this case. On the contrary these creatures possessed intelligence above the average; they voluntarily left New Orleans and went to Beaumont to make more money as prostitutes; that upon their arrival at the house of prostitution in Beaumont, and before they became its inmates, they were all three apprised of exactly the kind of place it was. Their lives of shame in New Orleans gave them an experience and knowledge no innocent girl could acquire. Hence in dealing with this problem it must be kept in mind that they knew exactly what they were doing and what their rights were. It is unfair and unjust to insinuate they are slaves or commodities without individual volition or will power. In fact. I feel authorized under the record to say they went as deliberately into prostitution as we go to meals or perform any other daily habit, and just as deliberately they continued the immoral practice. Hence all question of sentiment is eliminated from the case, and it comes back to the cold legal proposition:

When they decided to seek a new field on account of earning more money, was this their legal "privilege?" And if so, was this power in Congress to make felons of any other citizens to aid them in the exercise of their "privileges?"

As to Economides I presume the verdict of the jury will be held conclusive on the facts, and therefore state them as established.

Economides was engaged in a very disreputable though lawful business, at the corner of two streets in the business part of the City of New Orleans near the "Reservation." This "Reservation" was a restricted district to which was limited the houses of prostitution publicly run as such. There were many houses of assignation, including "wine rooms," in the vicinity of the Reservation. Economides place of business was a cafe and drinking

saloon on the ground floor, with the "wine rooms" or places for men and women to meet above on the second floor. The three young women, (all sisters born in the chronological order as named) Annette, Florence, and Gertrude Baden (alias Hays) had frequented his place of business, meeting other women, as well as men in his wine room. No respectable or decent women ever knowingly went to his place of business, though strangers sometimes came there through ignorance of its reputation. He was acquainted with the three young women by having often met and talked with them in his place of business. He knew Effie Hoke in the same way and knew she was the keeperof a house of prostitution of some kind in Beaumont, from what she had told him, though he had never been in Beaumont in his life before the Monday morning preceding the beginning of his trial in this case. and had no interest of any kind in Effie Hoke's business. He called the two elder girls into his wine room. Annette and Florence, and there made them acquainted with Effie Hoke, saying as he introduced them to Effie Hoke. "These are the girls I was telling you about. They have a little sister." They took many drinks then and the Hoke woman proposed to them to go to Beaumont. Economides said to them, "You had better go. She has a good private boarding house there, and she will treat you as a mother." He asked where Gertrude was, and upon being told the Hoke woman gave Florence fifty cents for car fare and asked her to go after Gertrude, which she did. Annette testified he told her if she went to Beaumont, and found that she did not like it there, to write him and he would send the money for her and her sisters to come back to New Orleans. He had no conversation with Gertrude and she went to Beaumont through persuasion of her two older sisters. There were other facts testified to which were damaging to this defendant in the minds of the jury, but which do not concern the following question:

Do the above facts destroy his "privilege and immunity" as a citizen of New Orleans, Louisiana, to argue with, persuade, and prevail, upon three other citizens of New

Orleans to go to Beaumont, Texas, he in no other respect rendering any actual aid or assistance?

If so, of course, the Constitutional provision has no effect as a limit upon the powers of Congress.

In the absence of an allegation in the indictment that these women were being carried under duress, or against their wills, or in some other involuntary form, or by some fraudulent device were induced to go, they had these rights:

- 1. They could have stopped off at any place in Louisiana where the train stopped and have thus broken the interstate feature of the indictment.
- 2. Even after reaching Beaumont and before going to the place of prostitution they could have purchased transportation and returned to Louisiana, or have gone to some other place than Beaumont.
- 3. After reaching their destination at Beaumont and before going into the house of prostitution, they could have hired out for domestic service, or changed their occupation into some other than prostitution.

In either of these three events, the criminality of the acts charged in the indictment would have been completely destroyed; yet in so far as this Statute reads the original persuasion by this defendant in starting them or prevailing upon them to start on their journey, or merely in bringing about a meeting between them and the proprietress, Effie Hoke, would render him guilty of a felony, because his intention depending upon agreeing with their intention in prevailing upon them to go was for them to travel to Beaumont and engage in the occupation of prostitution. There is no pretense and no allegation to the effect that he prevailed on them against their wills, or coerced them, or in any way forced them, or fraudulently deluded them to go to Beaumont to ply their chosen occupation as prostitutes; the sole criminat. ing charge is that he persuaded or assisted in persuading them to go knowing their intention.

If it was a crime to thus aid them to voluntarily accomplish their desire in making the journey, then he was guilty under the reading of this Act. If this "aiding" made him a felon under this statute, then the hack-driver who carried them to the station, if he knew their destination and intention when reaching it, was a felon; and all the train crew, if they had such knowledge between Beaument and New Crleans, were felons; and so with the ticket agent in New Orleans, if he had such knowledge.

Each and all of them becoming felons under this law because they knew the intention of these women, just before they started, or during their journey, was to ply their occupation, an occupation depending entirely upon their wills, in Beaumont. To so hold renders the constitutional provision above cited nugatory and inoperative.

## SECOND PROPOSITION UNDER FIRST ASSIGN-MENT OF ERROR.

The Act is void in that it conflicts with the reserved police powers of the States individually to regulate or prohibit prostitution or any other immoralities, of their citizens.

#### AUTHORITIES.

Amendments IX and X.

Keller vs. United States, 213 U. S., 143, same case 53 L. C. Ed., 737.

Fairbank vs. United States, 181 U. S., 283, same case, 45 L. C. Ed., 862.

# ARGUMENT OF MR. HAL W. GREER UNDER THE ABOVE PROPOSITION.

In order to exemplify the fundamental doctrine of the "reserved powers" of the States I ask the Court to indulge me in a brief historical summary.

From the very beginning of their rebellion, which they

successfully turned into revolution, the thirteen colonies were intensely jealous of if not hostile towards each other, and they only wanted a general government strong enough to protect them against common foes. They united for self-protection and no other purpose. Every power they yielded in the Articles of Confederation was reluctantly given under the fear that their individual autonomies might be encroached upon, and the very name they gave their national organization, "The United States," was intended to carry the implication that it was a voluntary association, and not a centralized form of government, superior to each individual or "sovereign" State. They were careful in their national constitution to define all the powers they were willing to concede to each co-ordinate branch, lest one or the other, might assume powers they did not intend to grant. Speaking to this historical feature, Mr. Chief Justice Marshall in Barron vs. Mayor and City Council of Baltimore, 7 Peters, 243, s. c. 8 L. Co., Op. Ed., 672, says:

"But it is universally understood, it is a part of the history of the day, that the great revolution which established the Constitution of the United States was not effected without immense opposition. Serious fears were extensively entertained that those powers which the patriot statesman who then watched over the interests of our country, deemed essential to union, and to the attainment of those invaluable subjects for which union was sought, might be exercised in a manner dangerous to liberty. In almost every convention by which the Constitution was adopted, amendments to guard against the abuse of power were recommended. These amendments demanded security against apprehended encroachmenets of the general government—not against those of the local governments.

In compliance with a sentiment thus generally expressed, to quiet the fears thus extensively entertained, amendments were proposed by the required majority in Congress, and adopted by the States. These amendments contain no expression indicating an intention to apply them

to the State Governments. This Court cannot so apply them."

Hence the Amendments IX and X were intended as emphasizing the retention of reserved powers to the States in all cases save those which expressly delegated powers to Congress.

Marbury vs. Madison, (1 Cranch, 137, s. c. Book 2, L. Co., Ed., 60) was the first case in which the Supreme Court of the United States declared:

- 1. That under the Constitution of the United States the Judiciary not only had the right but it was its duty to declare void any act of Congress where it exceeded the grant of powers conferred by the Constitution, or where such act plainly violated any provision of the Constitution.
- 2. That a certain act of Congress attempting to confer original jurisdiction in certain cases upon the Supreme Court of the United States, was void, in that it encroached upon and contravened that part of the Constitution which defined the original and appellate jurisdiction of that Court.

The decision was rendered at the February term, 1803, and when it became known by being published in the newspapers and periodicals of the time, it created a storm of discussion that seriously threatened disruption of the Union.

The proposition discussed pro and con in open debate and the public prints by noted men of the time, was:

Could the Judiciary, a co-ordinate branch of the Government, annul and set aside the acts of another, or both the other co-ordinate branches?

For bitterness and vituperation in decent English no question of modern times has reached the intensity of this debate over the above question; and no language we now posse(ss can excel that employed by Mr. Jefferson in denouncing the opinion rendered by Chief Justice Marshall, nor that employed by his supporters in reply, for Mr. Marshall himself took no part in the discussion subsequent to his rendered opinion.

Thus an office which the bar generally treat humorously and often as a joke, and for which the people generally have but small respect; an office all of us look upon almost with contempt, and which is treated as the dernier resort of political ambition, came near causing war and the disruption of this Government almost in its inception—A Justice of the Peace!

Yet the suit over this despised office originated the most fundamental and far reaching doctrine known to the law, the doctrine that courts must set aside legislative enactments whenever they are found in the opinion of the Court to be violative of any express clause of a constitution or whenever they do not come within the grant of power contained in some of its provisions.

Following this case with an unbroken line of decisions by the Supreme Court of the United States, and all subordinate Federal Courts, I briefly summarize the adjucated doctrine into the following

#### SUB-PROPOSITION.

The Congress of these United States, as a legislative body, is one of limited powers prescribed by the Constitution, and can pass no valid enactment unless it comes strictly within some one or more of the provisions conferring the power; and that all powers not so expressly granted to Congress, by the Constitution, were reserved to the states individually.

I deem this proposition to be so well settled now as to be axiomatic, and citation of authority becomes unnecessary.

So that when they (the States) granted the power to Congress "to regulate commerce between the States" it was intended as a strict limitation to regulating commerce as such and as the common understanding would interpret it, and they did not intend that it should ever be extended by implication into interfering with, regulating or aiding the reserved police powers. It is no argument to say the States individually could not forbid an interstate jour-

ney to prostitutes, or to those aiding or assisting in such journey, for the simple reason that each State has the power absolutely to suppress prostitution within its borders, even to the radical extent of making it a capital felony; and to say the State had no such power to prohibit such interstate carriage of prostitutes is but a further exposure of the object of the bill to interfere with the police power of the States to regulate the morals of their citizens. Chief Justice Fuller speaking for the Court in U. S. vs. Knight Co., 156 U. S. 12, 39 L. C. Ed. 329, says: "That which belongs to commerce is within the juris-

diction of the United States, but that which does not belong to commerce is within the jurisdiction of the police

powers of the State."

## THIRD PROPOSITION UNDER FIRST ASSIGNMENT OF ERROR

The act is unconstitutional in that it does not come within the terms of Art. I, Sec. 8, sub-division 2, relating to the power to regulate commerce among the States, or any other grant of poweer in this: that while the carrying of passengers interstate comes within "the power to regulate commerce," the motive or intent of the passenger either before beginning the journey, or during, or after completing it, is not a matter of interstate commerce.

#### STATEMENT.

Whatever the defendant, Economides, did was before the journey began, before it had been contracted for, before there was any fact of interstate carriage. He rendered no actual aid or assistance of any kind and though he argued, persuaded, and enticed the females to go, he promised them if they were not satisfied and wished to return to New Orleans he would send them the money for their actual passage. He did not go to the train with them, nor take the journey with them, nor see them at the end of their journey. He had no interest in his co-defendant's business in Beaumont, and testified that the

first time he was ever in Beaumont was the Monday morning preceding his being put upon trial in this case.

#### AUTHORITIES.

Keller vs. United States, 213 U. S., 143, s. e. 53 L. C. Ed., 737.

Lottery Case 188 U.S. 32, s c. 47 L.C. Ed., 492.

The Popper Case, 98 Fed. Rep., 423.

Fairbank vs. United States, 181 U. S., 283, s. c. 45 L. C. Ed., 862.

# ARGUMENT OF MR. HAL W. GREER UNDER ABOVE PROPOSITION

It has been held in an unbroken line of decisions, reaching back to the very beginning of our government, that Congress can pass no law which is not sanctioned by the Constitution of the United States, hence the present law must depend for its validity upon that clause of the Constitution (Art. I, Sec. 8, sub-division 2) which reads as follows:

"To reguate commerce with foreign nations, and among the several States, and with the Indian tribes."

True the carrying of passengers from one State into another is interstate commerce, and Congress can reguate the carriers and prescribe the rules for their guidance in such business; but it cannot regulate the passengers indulging in such travel further than to make them comply with the rules and law regulating their passagethey may come and go as they please. The act of the carrier in taking the price of the ticket, entering into the contract of carriage with the passenger, is interstate commerce; but what the passenger does, whether he eats three meals en route or only one, whether he sits in one place all the time, or reads and writes, or what he intends doing (unless committing some overt act of treason against the Government or some State) either before beginning the journey or whilst en route, or after he reaches his destination, are not matters of interstate commerce which the Government can regulate. Whether the carriers shall take some free of cost and make others pay full fare, are acts of interstate commerce which Congress may inquire into and regulate; but as to who (or what number) intends to indulge in sexual vice, especially after reaching his destination, certainly does not come within the definition of "regulating commerce" among the several States

In United States vs. Westman, 182 Fed. Rep., 1017, (the case of "first impression" under this statute), the learned judge does not properly observe the distinction between the right of Congress in regulating the carriage of passengers interstate, and the acts and motives of the passengers themselves and as citizens. And the opinion of the learned Judge who tried this case, as well as his argument in advocacy of the bill when he was a member of Congress, fails to note the distinction. If Congress were to pass an act prohibiting aid, etc., to any man going over a common carrier, or walking for that matter, into another State for the purpose of opening a gambling house where the immigrant State by its laws prohibited gambling, or into a State to open a drinking saloon where the laws of the State prohibited the sale of intoxicating liquors, or into a State for the purpose of teaching profanity (vide Maryland) where its laws forbid and make a crime of all forms of profanity the reasoning of the learned Judges in these cases would apply with just as much force as to the ones they were discussing.

To illustrate: Suppose these women had been denied transportation by all public carriers from New Orleans to Beaumont, and they decided to walk, and appealed to the defendant to lend them sufficient funds to pay for their necessaries as they journied? Would there, in any sense be a case calling for "regulating commerce"

\* among the several States?" I think not; yet the defendant, knowing their intention to engage in prostitution upon their arrival in Beaumont, would be guilty of felony under this "White Slave Act."

To illustrate still further the consequences of such enactments by Congress: I call attention to the fact that

many cities in the United States are placed juxtaposition with only a stream between them as New York and Jersey City, and Cincinnati and Covington, and indeed many are so placed with only the line run by a surveyor on the ground to mark their position in two States, as Kansas City, Missouri, and Kansas City, Kansas, and the two Texarkanas, etc. Suppose a man pays the ferriage of a woman accompanying him from New York to Jersey City, to go to a house of prostitutin, and they both there engage in the act itself; or such a man pays the bridge toll over the Ohio River between Cincinnati and Covington with like intent and actual result, and the facts are duly proven; or if two women go together on such mission and one pays the ferriage or bridge toll of the other, and both go into the house of prostitution-all by appointmeent. Under this act each individual so paying the passage or toll for the other would be guilty of a felony. Or if as between the two Kansas Cities, or the two Texarkanas, the one aids the other by taking her arm (supposing her to be blind or crippled) to cross the street from one State to another. This would be a felony under this act on the part of the one so aiding the other. each instance there has been interstate travel, whether by conveyance or on foot, with the intent for the women to ply their trade of prostitution, yet I cannot conceive of either act of fact as coming within the power of Congress to regulate commerce between the two states.

In fact when a crime is sought to be made out of the act of another which depends solely upon the will or mental volition of still another in the exercise of a lawful right, a very grave question of mental as well as moral philosophy arises; it seems to me these individual idiosyncrasies involving no right of government function as a nation, are too wide spread and too broad in scope for the National Legislature to encroach upon; and that they belong essentially either to the police powers reserved to the States, or to the municipalities under their control. In fact, speaking from the national point of view, prostitution is not a crime under the laws of the United States except in certain territories exclusively within the na-

tional jurisdiction. In other words, prostitution in Texas or any other State is not a crime against the laws of the United States. Why?

Because the regulation of morals within a State comes strictly within the police powers of that State, and is strictly enjoined against Congressional action under the Constitution in attempting to interfere with or enact national laws regulating such police powers within a State. Now can Congress indirectly pass and enforce an act regulating or aiding the police powers of a State in some special respects where the organic law forbids that it shall do so directly? I think not; that this is dangerously trenching upon the reserved powers of the States. Thus the plain purpose and object of this Act is to interfere with or limit or partially prevent, and make a crime of prostitution and to forbid the aiding or assisting in the practice of prostitution; and the resort to the interstate power of Congress is but a specious device and subterfuge to conceal the real purpose of the law, which thus encroaches upon the police powers of the States.

For the clearest dissertation upon the limitations of Constitutional power, I refer the Court to Fairbank vs. United States, 181 U. S., 283, 45 L. Ed., 862. In the Fairbank case Mr Justice Breweer speaking for the Court, says: It would be a strange rule of construction that language granting powers is to be liberally construed, and that language of restriction is to be narrowly and tenchnically construed," and again in the course of the same opinion he says: "In other words that decision" (referring to Woodruff vs. Parham, 8 Wall., 123, 19 L. Ed., 382) "affirms the great principle that what cannot be done directly because of constitutional restriction cannot be accomplished indirectly by legislation which accomplishes the same result."

Congress may have power (and even this admits of grave doubt) to forbid any interstate passenger on a rail-way train or other common carrier from practicing prostitution, adultery, and the like, and making such acts a crime whilst on the journey; but neither before the be-

ginning of the journey in one State, or after its ending in another, can Congress under the interstate commerce clause of the Constitution make a crime of prostitution in any State, because under such facts no act of interstate commerce is involved.

Speaking to a case bearing close analogy under the "alien" act forbidding the immigration of women for the purposes of prostitution, etc., Mr. Justice Brewer in the case of Keller vs. United States, 53 L. C. Ed., page 737, (213 U. S., 143), says:

"While the keeping of a house of ill-fame is offensive to the moral sense, yet that fact must not close the eye to the question whether the power to punish therefor is delegated to Congress or is reserved to the State. Jurisdiction over such an offense comes within the accepted definition of the police power. Speaking generally, that power is reserved to the States, for there is in the Constitution no grant thereof to Congress."

"Although Congress has not largely entered into this field of legislation, it may do so, if it has the power. Then we should be brought face to face with such a change in internal conditions of this country as was never dreamed of by the farmers of the constitution. While the acts of Congress are to be liberally construed in order to enable it to carry into effect the powers conferred, it is equally true that the prohibitions and limitations upon those powers should be fairly and reasonably enforced. Fairbank vs. United States, 181, U. S., 293, 45 L. Ed., 862, 21 Sup. Ct. Rep., 648. To exaggerate in the one direction and restrict in the other will tend to substitute one consolidated government for the present Federal system. We should never forget the declaration in Texas vs. White Wall., 700, 725, 19 L. Ed., 227, 237, that 'the Constitution, in all its provisions, looks to an indestructible Union composed of indestructible States."

The Lottery case (188 U.S., 32) s. c. 47 L. Ed., page 492, is based upon an entirely distinct and different proposition from the case at bar in this: the bringing, by any method, of a lottery ticket, etc., into the United

States or the carrying of the same by mail, or any other mode of conveyance from one State to another, was and is made a crime against the United States Government as such, ragardless of whether any individual State defined it as a crime or not. Therefore the defendant was indicted for committing a crime, denounced and defined as such against the General Government. So in the Popper Case, 98 Fed. Rep., 423, it was made a crime to deposit the commodity with the Express Co. for interstate carriage.

Whereas prostitution is not a crime against the Government as such except in territories exclusively under Congressional control, but of the States individually. And again the carrying of this lottery ticket denounced as a crime, was essentially the carrying of a commodity, an inanimate object without will or volition and depending upon its use or its movements on the controlling power of mankind.

But as was said by the Judge of the lower Court, as a member of Congress, when advocating the passage of the Act: "This law does not pretend to define or denounce prostitution as a crime; it does not forbid prostitutes as such from traveling interstate; it simply forbids any person to aid them to travel interstate with the object or intention on the part of the person aiding them that they shall be prostitutes or practice prostitution or debauchery, etc." Thereby clearly demonstrating that the Act intends to make a crime out of the motive or intention of still another to do a certain thing.

In every offense save this one a conviction for crime must depend upon the intent to commit the crime; but here the intention is the crime where no real crime may in fact be committed.

In all other cases the shipment of the forbidden commodity interstate, as well as its receipt, constitutes the crime; but here though the aid of the passenger may be lawful, yet if the person giving it intends the recipient shall do an immoral thing at the end of her journey, whether she does it or not, makes the person rendering the aid a felon.

It should be borne in mind this decision (Lottery Case) was rendered by a bare majority of the Supreme Court, four judges, speaking through Chief Justice Fuller, dissenting.

This may be all summarized in one general proposition: Where both the right to carriage and the fact of carriage are lawful within themselves, there is nothing of "commerce between the States" which Congress can prohibit in aid of such lawful right.

Has Congress the granted Constitutional power to make prostitution a crime within the limits of any State?

I say no; and the Supreme Court of the United States speaking through Justice Brewer say no.

Has Congress the constitutional grant of power to forbid "the transportation in interstate commerce" of any woman or girl " for any other immoral purpose?"

If so, can it not with equal propriety forbid the interstate transportation of any man or boy "for any other immoral purpose?"

To both questions, I answer no; that when such transportation is from one State to another, the question of morality or immorality is for the police powers of each State to define.

Surely it will not be seriously contended that the power to regulate interstate commerce confers upon Congress the power to regulate the morality "or any other immorality" (a phrase broad enough to reach drinking, gambling, exposure of person, fighting, lying, profanity—in fact any "frailty which the flesh is heir to") of citizens individually.

If so there is no such thing reserved to the States per se as "police powers," for any "other immorality" is broad enough to cover every crime defined in the criminal codes and codes of criminal procedure in every State in the Union. Nay, more, "any other immortality" is broad enough to cover opinions and religious convictions; for citizens of a State where protestantism is strongly in the majority might consider it highly immoral to transport a girl into a catholic convent or school in another State—even Congress might consider this immoral and expressly enact against it under its power to regulate interstate commerce. Reductio ad absurdum!

The Catholic church and one Protestant—the Episco-pal—consider it highly immoral for divorced people to marry again. Now suppose the judge of the United States Court and the District Attorney and the Grand Jurors, by coincidence, all happened to be members of one or the other of the above denominations—then suppose a divorced woman, in all other respects a good citizen, asks me, or any other citizen, to aid or assist her to get from Texas to Louisiana for the purpose on her part of marrying a good man there, both she and her intended husband being friends of mine, and I comply with her request. Would I or not before a court so organized be subject to indictment for aiding and assisting her to travel interstate "for an immoral purpose"?

This feature of this argument is only tentatively offered to show what is moral or not, is largely a matter of opinion which Congress cannot interfere with without encroaching on the reserved police powers of the States; and that it is the part of wisdom, as well as constitutional guaranty, to leave these matters within the discretion of the States individually.

Many, perhaps the majority of men, do not consider it immoral for those of masculine gender to visit houses of prostitution and indulge in sexual cohabitation with the female inmates thereof, whilst all agree it is the very depths of degradation for the females. Speaking individually, I think it is just as immoral for the male as for the female to indulge in this sexual vice. Yet this is essentially a matter of opinion. Some people believe in free love, but to me that is a fearfully immoral doctrine, destructive to my pre-judged opinion of what a family

should be. My belief is that every man should be as virtuous as his wife, and that the perpetuity of a vigorous race depends upon lawful marriage. Yet this is only my opinion, for much can be said to justify the opposite view. Indeed I doubt if one man in a hundred thousand would agree with me that the man should be sexually as pure as the woman he married yet they will all concede that as an abstract moral question I am right.

For all these reasons I am persuaded the sexual relation in all respects is not and never can be a matter of interstate commerce and ought to be left to the police powers of the States.

Reducing the whole subject to a legal proposition it is this:

Where both the right to interstate carriage and the fact of carriage are lawful within themselves, there is nothing of "commerce between the States" which Congress can prohibit.

I respectfully submit the act is unconstitutional.

As we understand it, the rule of decision in this Court is this:

Where the constitutionality of an enactment is fairly and sincerely raised, writ of error lies direct to this Court upon the entire case, and if the Court should overrule the contention that an act is unconstitutional, yet it takes cognizance of the entire case on its merits.

We, therefore, offer the following:

#### BRIEF OF ECONOMIDES ON THE MERITS.

As the Second and Third Assignments of Error contain the same proposition of law, we group their substance as follows:

#### SECOND AND THIRD ASSIGNMENTS.

Substance of second assignment being demurrers to indictment:

- 1. Because the matters and things set out and charged agianst them in each and every count thereof, do not constitute an offense against the laws of the United States.
- 2. Because the matters and things in each and every count of said indictment against them, as charged and set out, do not constitute an offense cognizable in this Honorable Court, in that said matters and things do not come within its powers and jurisdiction.

Substance of third assignment being upon motion to instruct a verdict of acquittal:

- 1. Because under the so-called White Slave Act of June 5th, 191, no offense against the law is charged in that the act does not define the words "prostitution," "debauchery," or "or other immoral purpose," which constitute the gravamen of the alleged criminal acts, in that the word "prostitution" is broad enough to cover every act of lewdness or sexual dissoluteness on the part of either men or women, and the word "debauchery" is equally as broad in its significance, whereas the words "or other immoral purpose" are broad enough to embrace any transgression of law, moral, divine or statutory, and thereby and therein the indictments in these cases are insufficient for the court to predicate its charge to the jury upon, or to impart to these defendants notice of any specific act of prostitution, debauchery, or other immoral purpose they are charged with the intention of having the alleged females to commit.
- 4. Because the title of the Act, in being named "The White Slave Act" is misleading, and tends to entrap citizens into a misapprehension of its terms, in this: (1) Becase prostitution, debauchery, or other immoral purpose within themselves do not constitute any act or fact of slavery; (2) Because the act in its terms is broad enough to embrace all women of all races, and therein

and thereby tends to inflame and create prejudice against the defendants, when applied to the facts in this case.

- 5. Because sexual vice or immorality, in every instance, is a matter of individual volition, and does not within itself, constitute an act of slavery.
- 6. Because the act not undertaking by either its express or implied terms, to punish a prostitute, or one intending to engage in prostitution, for traveling interstate, it cannot punish one for aiding or assisting another to do that which is not unlawful for such other person to do.
- 7. Because the actual fact of the interstate journey is not a crime within itself, nor do any of its facts embrace the prohibition against another that would come within any rule of interstate carriage in aiding or assisting one so traveling interstate.
- 8 Because the so-called White Slave Act does not forbid any women or girl to travel from one State to another for the purpose of engaging in prostitution, or other immoral purpose, at the end of her journey, therefore, under the Constitution of the United States Congress has no power to make a crime of one aiding or assisting or persuading her to take such lawful journey.
- 9. Because it cannot be made a crime for one to assist another to do that which such other has the lawful right to do.

# FIRST PROPOSITION UNDER THE FOREGOING GROUP.

Even though the Act may be held constitutional, still the indictment and proof thereunder are insufficient to sustain a conviction of Economides in this:

The Act does not define the words "prostitution," "debauchery," or "or other immoral purpose," and the indictment failing to define these words, and the Court failing to define them in its charge left the jury free to interpret them as they saw fit, and therein to hold Economides guilty, where the proof showed he rendered no actual aid or assistance in the interstate journey of the prostitutes; was not interested in and knew nothing of what they did at the end of their journey; and was in no sense a party to their "prostitution," "debauchery," or "or other immorality" in Beaumont, Texas.

#### STATEMENT:

The witness, Annette Baden, alias Hays, as to Economides, testified: (Record, 18-25.)

Q. State your name to the jury. A. Annette Baden. Q. Do you go by any other name? A. Yessir. Q. What is that? A. Hays. Q. Do you know Basile Economides? A. Yes, sir. Q. Point him out to the jury? A. (Points to the defendant Economides). Q. The man with the mustache back there? A. Yes, sir. Q. Do you know Effie Hoke? A. Yes, sir. Q. How long had you known Economides before you went to the country? A. About four or six months. Q. What business was he in? A. The saloon business. Q. Where was his saloon? A. On Burgundy and Iberville. Q. In what place A. In New Orleans. Q. Did he have just an ordinary saloon, where you would go to get a drink; what sort of saloon did he run? A. A saloon and private dining room for ladies to drink. Q. Is that what is known as a wine room? A. Yes, sir; a wine room. Q. You say you had known him four to six months before you went to the country! A. Yes, sir. Q. Do you know Effie Hoke? A. Yes, sir. Q. Point her out to the jury. A. (Points out the defendant, Effie Hoke). Q. When did you first meet her? A. Monday afternoon, when I came from the country. Q. After you came back from the country on Sunday? A. Yes, sir, Q. Where did you meet herf A. At Mr. Economides' Cafe. Q. How did you happen to be at the cafe? A. We were passing there, and he called us. Q. Who were passing there? A. My sister Florence and I. Q. Is she older or younger than yout A. Younger. Q. How old are you? A. Twenty. Q. You were passing Economides' saloon 7 A. Yes, sir; and Mr. Economides called us. He

called us, and we started on. My sister was on her way to work at the picture show. Q. Where were you going? A. Home. A ilttle boy came after us and says: "Mr. Economides says you-all come back." My sister says: "I have to go to work at the picture show." So I went back to the saloon to the corner, and he was standing in front of his saloon, and my sister went on to work, and I went back t him and was talking to him and Mr. Economides says: "Go on and get Florence." Q. You went back with the little boy to Economides' place? A. Yes, sir. Q. What was said when you got back? A. He said: "Where is Florence?" Q. Who said that? A. Mr. Economides. And he said: "Where have you been all this time?" And I told him: "I have been to the country." And he says: "I have been looking for you." Q. What else did Mr. Economides say? A. He told the little boy to go back and get Florence. Q. Did the boy leave? A. Yes, sir; and Florence was near the corner. Q. Where did you and Economides go then? A. I went upstairs with Mr. Econmides. Q. Was that over his saloon? A. Yes, sir. Q. What kind of room was it you went into over the saloon! A. A private wine room. Q. Connected with his saloon? A. Yes, sir. Q. All right; go ahead and tell the jury what he said after you got up there. A, We had a drink, Mr. Economides and I, and by that time Florence came in, and we had another drink and Mr. Economides says: "I have a lady friend I want you to meet," and eh says, "Do you want to meet her?" and we said "yes," and he said he had 'phoned for the friend he wanted us to meet, and so in about twenty minutes afterwards Miss Effic came in. Q. Effic who? A. Hoke. Q. The defendant here? A. Yes, sir. We all drank together. Q. You. Florence and Mr. Economides? A. Yes. sir. Q. You continued having drinks together? A. Yes, sir; and after twenty minutes afterwards, while we were drinking, Miss Pauline came in. Q How long was it after you went up in the wine room until Effie Hoke came! A. Twenty minutes. Q. What was said by Economides or by Effice Hoke, if anything? A. When she came in he said: "Here is the lady from Beaumont I want you to meet." He says: "Miss Effie, these are the

girls I have been telling you about," and she said, "Let's have a drink," and we all had a drink together and by that time Mr. Economides says, "You have another sister, Gertrude go get her." He says, "She is younger than these two; go get her." I says, "No, I don't want my little sister along don't go get her." Miss Effie says, "Yes, here is fifty cents, go get Gertrude." She said that to Florence, and she went and got Gertrude. Q. Was there anything else said, anything about your leaving New Orleans! A. After we had some drinks and all she said she had a private house in Beaumont. Q. Tell what Economides said, and what Effie Hoke said. A. She said she had a private boarding house in Beaumont, and there was no reason for working for five dollars a week when salesladies could get fifteen dollars a week in Beaumont. We were intoxicated, and we said we did not care, we would go along, and in about twenty minutes afterwards Gertrude came in and we had a drink, and she told all about going to Beaumont. Q. Did Economides say anything about going to Beaumont. A. He said his lady friend would treat us nice that she had a private boarding house, and that we would be well taken care of-just like a mother. Q. Anything else? A. We continued taking drinks, and ordered drink after drink, and sister Florence started to go to the theater, and they said "No, stay here," and Economides said we were pikers and to take more drinks. Florence said, "I have to go to the theater. I am not dressed to think of being out; let me go to the theater." He said, "Oh, don't be a piker; have a drink." Economides said that. Q. He said, "Don't be a piker, have some more drinks?" A. Yes, sir. Q. Florence left, I believe you said, to go get the other sister? A. Yes, sir; in about twenty minutes she was back with her, and we had more drinks with Gertrude, and when we left there Mr. Economides 'phoned for a taxicab, after we decided we would go, and we went from there to Miss Pauline's. We went to her house in the tazicab, and there we had two drinks, and then we went to the depot. Q. Was anything said by Effie Hoke to Economides there at the saolon about money matters? A. No, sir. Q. About owing some money? A. Mr. Economides said, "Tell Effie Hoke you owe \$12.00 to your landlady on St. Charles Street." "I told him I didn't owe anything. Q. Did he tell you why you must tell her that? A. He said: "When you get in Beaumont you don't know what time you will want to come back, and I will send you the \$12.00 and you can come back." I told him I did not owe my landlady anything, and he says, "I will tell her you owe \$6.00," and when she came back to Beaumont she told me I owed \$6.00 to Economides for a board bill, and I told her I didn't owe anything. Q. You say that after your sister Gertrde got there you all decided to come to Beaumont? A. Yes, sir; after we had a couple more drinks. Q. Florence and Gertrude are both your sisters? A. Yes, sir. Q. How old is Florence? A. Nineteen the 18th of this month. Q. How old is Gertrude? A. Seventeen last December Q. Where did you go from Economides' saloon! A. Mr. Economides 'phoned for a taxicab, and we went to Miss Pauline's. Q. Who paid for the taxicab? A. Miss Effie did. Q. Was there anything said by Economides as to who was to pay? A. He told them they would settle down at the house. Q. Whose house? A. Miss Pauline's. Q. Who is Miss Pauline? A. She is a landlady on St. Charles Street. Q. The keeper of an assignation house? A. Yes, sir. Q. In the conversation between yourself and Economides and Effie Hoke, did Economides say anything in reference to if you were not satisfied in Beaumont? A. Yes, sir; he said if we were not satisfied to write to him and he would send us the money to come back. Q. That if you got to Beaumont nad were not satisfied to write him and he would send you the fare back to New Orleans? A. Yes,

Questioned by Mr. Greer:

Q. I want to see if I understood you correctly. You stated that on the morning of your arrival at Beaumont, when you got to this house you were there informed or discovered the character of the house? A. Yes, sir. Q. Is that correct? A. Yes, sir. Q. At that time did you and your sisters talk it over as to the character of the house? A. Yes, sir. Q. So all three of you knew it at

that time? A. Yes, sir; we all three wanted to leave. On page 27 she testified: Q. You reached Beaumont at what time? A. Quarter to eight the next morning. O. Where did you go after you got here? A. We taken a taxicab and went to Effie Hoke's. Q. Where was Effie Hoke's A. Down on Bonham Street. Q. On Bonham Street? A. Yes, sir. Q. What kind of house was that? A. It was a rough house. Q. What kind of house? A. A rough house. Q. By what you mean a sporting house? A. Yes, sir. Q. Was it a house of prostitution? A. Yes, sir. Q. Who was there when you got there? A. Two girls taking care of the house. Q. What were their names? A. Lucille Camp and Ouida Landry. Q. When you left New Orleans, did you understand you were going to a house of prostitution? A. No, sir. Q. When was the first time you discovered that you were in a house of prostitution? A. As soon as I got there. Q. Who told you that? A. Ouida Landry. Q. When did you next see the defendant, Effie Hoke, after you left New Orleans? A. The following morning; the next morning after we got here.

Florence Baden, alias Hays, testified substantially the same as the foregoing testimony of Annette Hays. (Record, page 79 to page 131.)

The witness, Gertrude Baden, alias Hays, testified to her age being seventeen, and to her sister Florence having come for her, and her going to Economides' place of business, and there meeting Effie Hoke. Practically all she testified against Economides is contained in the record 133, as follows:

Q. Now, Miss Gertrude, go ahead and tell all you can remember, what was said by Mr. Economides and by Effie Hoke in reference to getting ready to come to Beaumont? A. He said more to my other sisters than to me. He said they were coming to Beaumont; he didn't tell me anything about it, and later on he said "You are going over to see this lady; she has a private boarding house," but he never said what it was for. He said to Miss Effie, "Here is the other girl I was telling you about." He

said, "This is the other little girl I was talking to you about," and they said, "Let's have a drink," and we had a drink. Q. Then what else was said? A. That is all I remember. Q. That is all you remember? A. Yes, sir.

The defendant, Basile Economides, after testifying to his name, nationality, place of residence, place of business, the character of his business, etc., testified to his acquaintance with the three Baden sisters, and that he had known them about six months or more. That they frequented his place of business at all hours of the night and day. He then categorically denied all that they had testified as hereinbefore set forth. He also testified that he had no interest in the business of Effie Hoke and had never been in Beaumont preceding the Monday morning just prior to the beginning of his trial. Record, pages 260-285.)

There was no other testimony showing any aid or actual assistance of any kind rendered by Economides in getting the young women any tickets or other means of transportation nor was there anything to show that he advanced any money or did more or said more than was set forth above.

Upon this subject the Court charged as follows:

The Court further tells you that if you find that the defendant, Basile Economides, did no more than introduce the girls, Annette, Florence and Gertrude, to the defendant, Effie Hoke, he would not be guilty under either of the counts in the bill of indictment. But, on the other hand, if you find from the evidence beyond a reasonable doubt that the defendant, Basile Economides, knew the unlawful purpose of the defendant, Effie Hoke, to induce, entice or persuade these girls or either of them to make the interstate journey for the purpose of prostitution and if you believe beyond a reasonable doubt that he introduced the girls to Effie Hoke in order to afford her an opportunity to persuade, induce or entice them to make the interstate journey, for the purpose of prostitution, and knowing that the defendant, Effie Hoke,

intended to so persuade, induce or entice them, then he would be guilty as a principal offender in the crime charged.

"In this connection, the Court further tells you that if you believe from the evidence that the girls came to Beaumont because of their own will and desire to do so. and not on account of being persuaded, induced or enticed to come, then, in such case, neither of the defendants would be gulty under any of the counts in the bill of indictment. But the Court tells you, in this connection, that it was not necessary that they should have been forced or coerced to come in order to render the defendants guilty under this bill of indictment. If their consent to come was secured by the defendants either persuading, inducing or enticing them to come, that would be sufficient under the law, even though they may have thereafter willingly come. It is for the jury to determine from all the facts whether the three girls named in the bill of indictment came from New Orleans to Beaumont of their own free will, and in obedience to their own wishes, or whether they were persuaded, induced or enticed to come by the defendants. If they came of their own free will and accord, without being persuaded, induced or enticed to come, then neither of the defendants would be guilty. But, though they came voluntarily, if their volition was obtained by the persuasion, inducement or enticement described in the bill of ndctment. then the defendants would be guilty.

"I also tell you, gentlemen of the jury, that if the jury find from the evidence beyond a reasonable doubt that the defendants persuaded, induced or enticed the three girls mentioned in the bill of indictment to come from New Orleans, Louisiana, to Beaumont, Texas, for the purpose of prostitution, then it is absolutely immaterial whether they were prostitutes before they began the journey or not. It is just as much a violation of the law I have read you to persuade, induce or entice a prostitute to make an interstate journey for the purpose of prostitution at the end of the journey as it would be to persuade, induce or entice a woman of virtuous habits

to make such journey for the purpose of prostitution. The law does not make any distinction between the two. It is the persuasion, inducement or enticement for the purpose of prostitution that constitutes the offense, and the character of the woman so persuaded, induced or enticed is an immaterial consideration, except you may consider the character of the girls named in the bill of indictment for the purpose of enabling you to pass upon their credulity and the weight to be given to their testimony, and for the purpose of enabling the jury to determine the question of whether they came of their own accord or were persuaded, induced or enticed to come.

And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans in the State of Louisiana, on the said 14th day of November, 1910, did knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Annette Baden, alias Annette Hays, to come in interstate commerce from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent upon the part of him, the said Basile Economides, that the said Anette Baden, alias Anette Hays, should engage in the practice of prostitution in the City of Beaumont, then in that event you will also find the defendant, Basile Economides, guilty under count number one of this pindictment.

And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans, in the State of Louisiana, on the said 14th day of November, 191, did knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Florence Baden, alias Florence Hays, to come in interstate commerce from said City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent upon the part of him, the said Basile Economides, that the said Florence Baden, alias Florence Hays, should engage in the practice of prostitution in the City of Beaumont, then in that event you will also find the defendant, Basile

Economides, guilty under count No. 2 of this indictment.

And if you further find beyond a reasonable doubt that the defendant, Basile Economides, in the City of New Orleans and State of Louisiana, on the date alleged in the bill of indictment, did knowingly aid and assist the said Effie Hoke to so persuade, induce and entice the said Gertrude Baden, alias Gertrude Hays, to come in interstate commerce from the City of New Orleans, in the State of Louisiana, to the City of Beaumont, in the State of Texas, for the purpose of prostitution, and with the intent then and there upon the part of him, the said Basile Encomides, that the said Gertrude Baden, alias Hays, should engage in the practice of prostitution in the City of Beaumont, then you will find the defendant, Basile Economides, guilty under the third count in this bill of indictment.

## EXCEPTIONS TO CHARGE.

Mr. Greer: We except to the charge, first, it omits to charge that persuasion, etc., must be connected with and followed by actual rendition of aid and assistance. Second: It omits to define the difference between mere persuasion and advice as to the females. Third: It omits definitions of prostitution, debauchery and other immoralities, leaving the jury to infer that prostituton as such is necessarily limited to houses of prostitution, whereas prosttution includes all acts of lewdness upon the part of a female Fourth: It omits to instruct a verdict of not guilty in favor of the defendant Economides, there being no evidence that he rendered actual aid and assistance towards the interstate journey of the females. Fifth: Because it omits to instruct a verdict of not guilty on the ground that the law under which the indictment was drawn is unconstitutional and void. Sixth: Because as to the female Gertrude Hays, the Court omits to charge the jury in express terms that the proof shows that the defendant Economides did not in any way persuade or assist in getting her to come to Beaumont for any purpose whatever. Seventh: Because it omits to charge that after arriving at the house of Effie Hoke in Beaumont and before becoming inmates thereof, they were informed and told the kind of house it was, and they could have withdrawn and not entered said house, and thereby destroying the incriminating facts as charged under the law, and showing no offense committed against the law.

We except to that part of the charge which states to the jury that the law is constitutional.

We except to the charge because it fails to state to the jury that when there has been persuasion or inducement it must be accompanied by an actual rendition of assistance in travelign.

### **AUTHORITIES:**

ARGUMENT OF MR. HAL W. GREER UNDER FOREGOING ASSIGNMENT, PROPOSITION AND STATEMENT:

My contention is, that if the Act is constitutional, it was never intended to make mere argument, persuasion, or enticement, unaccompanied with actual aid and assistance, a criminal offense, for the conjunction "and" used in connection with the other phraseology shows this purpose. I beg to quote section 3 in full, using italics for that part of the Act which I consider shows the necessity for the actual aid of assistance:

"That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or grl to go from one place to another n interstate or freign commerce, or in any territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Clumbia, shall be guilty of a felony."

In order to test this theory the question arises: Was it necessary that these young women should have actually begun and completed their journey in order to convict Economides? If not, then the mere conversational effort to "persuade, induce, entice, or coerce" them to travel interstate for the immoral purpose constitutes the crime -an anomaly unknown as to any other crime and which would certainly offer limitless opportunity for blackmail to such women. The courtezan has been the same conscienceless, shameless and dissolute creature in all ages since the dawn of history, ready for perjury or any villainy that would bring the gold. Even Shakespeare puts in the mouth of one of his Court Fools the remark, "He is mad who trusts a whore's oath." If such mere conversational effort is construed to be a crime under this Act, such women will be quick to utilize it to their advantage by swearing to such conversations at all times and upon all occasions where they would be slightly corroborated. There would be an endless train of these prosecutions.

I cannot believe such a construction is tenable, and that the Court will find as a matter of law that there must be some actual, overt, tangible act of assistance in the taking of the journey, such as lending them money for their passage, or the purchasing of the tickets for them, and the like.

If this deduction is correct, then the evidence shows indubitably that Economides did nothing in the way of actual aid. He never left his place of business; he did not pay out a cent; there is nothing to show that he even knew these creatures had taken the interstate journey until he was arrested under this indictment. All his acts were purely conversational in his own place of business. Say he did prevail upon them to enter his wine room and there meet his co-defendant; say he did argue with them in their own vernacular, and use every persuasive phrase he could bring to bear upon them; say he did promise if they were dissatisfied to send them money for their return; still there was no actual overt act of aid in any sense of the word that brought him within the operation of interstate commerce.

The Court, as shown from the preceding excerpts from the charge, told the jury it was not necessary for the Government to show he rendered any actual aid, and that feature was not only excepted to, but was emphatically called to the Court's attention, both in the motion to instruct a verdict of acquittal, as well as by requested special charge. (See Bill of Exception No. 17, Record 395 to 396), which the Court refused.

On this feature of the case I respectfully submit it should be reversed and remanded.

Green & Hall & Of Counsel for Economides.

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# In the Supreme Court of the United States.

OCTOBER TERM, 1912.

Effie Hoke and Basile Economides, Plaintiffs in Error,

No. 381.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF TEXAS.

Louis Athanasaw and Mitchell Sampson, Plaintiffs in Error,

No. 588.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

EMMA HARRIS, ALIAS EMMA R. SMITH, and Bessie Green, Plaintiffs in Error and Petitioners,

No. 602.

THE UNITED STATES.

IN ERROR TO AND ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Della Bennett, Plaintiff in Error and Petitioner,

No. 603.

THE UNITED STATES.

IN ERROR TO AND ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

#### BRIEF FOR THE UNITED STATES.

#### METHOD OF ARGUMENT.

The question of the constitutionality of the White-Slave Traffic Act being involved in each of these cases, that question will be discussed first. Each case will then be taken up, according to its number on the docket, and the alleged errors peculiar to it examined.

# The White-Slave Traffic Act (36 Stat., 825).

The act is set forth in full, although only sections 2, 3, and 4 are involved in the present cases.

CHAP. 395. An Act To further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the term "interstate commerce," as used in this Act, shall include transportation from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, and the term "foreign commerce," as used in this Act, shall include transportation from any State or Territory or the District of Columbia to any foreign country and from any foreign country to any State or Territory or the District of Columbia.

SEC. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in

any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.

SEC. 3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing, or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman

or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or by both such fine and imprisonment, in the discretion of the court.

Sec. 4. That any person who shall knowingly persuade, induce, entice, or coerce any woman or girl under the age of eighteen years from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, with the purpose and intent to induce or coerce her, or that she shall be induced or coerced to engage in prostitution or debauchery, or any other immoral practice. and shall in furtherance of such purpose knowingly induce or cause her to go and to be carried or transported as a passenger in interstate commerce upon the line or route of any common carrier or carriers, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment for a term not exceeding ten years, or by both such fine and imprisonment, in the discretion of the court.

SEC. 5. That any violation of any of the above sections two, three, and four shall be prosecuted in any court having jurisdiction of crimes within the district in which said violation was committed, or from, through, or into which any such woman or girl may have been carried or transported as a passenger in interstate or foreign commerce, or in any Territory or the District of Columbia, contrary to the

provisions of any of said sections.

SEC. 6. That for the purpose of regulating and preventing the transportation in foreign commerce of alien women and girls for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement or project of arrangement for the suppression of the whiteslave traffic, adopted July twenty-fifth, nineteen hundred and two, for submission to their respective governments by the delegates of various powers represented at the Paris conference and confirmed by a formal agreement signed at Paris on May eighteenth, nineteen hundred and four, and adhered to by the United States on June sixth, nineteen hundred and eight, as shown by the proclamation of the President of the United States, dated June fifteenth, nineteen hundred and eight, the Commissioner-General of Immigration is hereby designated as the authority of the United States to receive and centralize information concerning the procuration of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declarations, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner-General of Immigration to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in this act to the persons, respectively, making and filing them.

Every person who shall keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she shall have entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, shall file with the Commissioner-General of Immigration a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage, and concerning her procuration to come to this country within the knowledge of such person, and any person who shall fail within thirty days after such person shall commence to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose. any alien woman or girl within three years

after she shall have entered the United States from any of the countries, party to the said arrangement for the suppression of the whiteslave traffic, to file such statement concerning such alien woman or girl with the Commissioner-General of Immigration, or who shall knowingly and willfully state falsely or fail to disclose in such statement any fact within his knowledge or belief with reference to the age, nationality, or parentage of any such alien woman or girl, or concerning her procuration to come to this country, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not more than two thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court.

In any prosecution brought under this section, if it appear that any such statement required is not on file in the office of the Commissioner-General of Immigration, the person whose duty it shall be to file such statement shall be presumed to have failed to file said statement, as herein required, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by him, or the information therein contained, might tend to criminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture under any law of the United States for or on account of any transaction, matter, or thing, concerning which he may truthfully report in such statement, as required by the provisions of this section.

SEC. 7. That the term "Territory," as used in this Act, shall include the district of Alaska. the insular possessions of the United States, and the Canal Zone. The word "person," as used in this Act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person, acting for or employed by any other person or by any corporation, company, society, or association within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such other person. or of such company, corporation, society, or association, as well as that of the person himself.

SEC. 8. That this Act shall be known and referred to as the "White-slave traffic Act." Approved, June 25, 1910.

# History and Purpose of the Act.

Section 8 of the act provides that it shall be known and referred to as the "White-Slave Traffic Act." This title, the provisions of sections 2, 3, and 4 of the act with reference not only to the transportation in interstate and foreign commerce of women and girls for the purpose of prostitution or debauchery, or any other immoral purpose, but to persuading, inducing, enticing, and coercing any woman or girl to go and be transported from one place to another in interstate or foreign commerce for any such purpose, and the fact that the Federal supervision of alien women and girls and of persons keeping or harboring them in homes of prostitution or for any other immoral purpose, provided for by section 6 of the act, is said to be established in pursuance of and for the purpose of carrying out the international agreement for the suppression of the white-slave traffic signed at Paris on May 18, 1904, and which was adhered to by the United States on June 6, 1908, all indicate that the underlying purpose of the act is the suppression of such traffic in women and girls so far as it comes within the jurisdiction of Congress over interstate and foreign commerce.

This purpose was also plainly stated by the committees of Congress in recommending the passage of the bill. Thus the House Committee on Interstate

and Foreign Commerce (H. Rept. No. 47, 61st Cong., 2d sess.), in reporting the bill, said:

#### THE WHITE-SLAVE TRADE.

A material portion of the legislation suggested and proposed is necessary to meet conditions which have arisen within the past few years. The legislation is needed to put a stop to a villainous interstate and international traffic in women and girls. The legislation is not needed or intended as an aid to the States in the exercise of their police powers in the suppression or regulation of immorality in general. It does not attempt to regulate the practice of voluntary prostitution, but aims solely to prevent panderers and procurers from compelling thousands of women and girls against their will and desire to enter and continue in a life of prostitution.

The evil, as a present-day existing evil of widespread dimensions which has arisen, has been given careful attention by the representatives of most of the civilized nations of the world, and has been made the subject of an international agreement. Thousands of public-spirited citizens have combined in various National and State organizations for the purpose of lending their aid in its suppression. The white slave trade has been so prevalent that prosecuting officers, both State and Federal, even under inadequate and insufficient laws, have been able to secure many notable convictions. It is an evil which many State legislatures have attempted to regulate within the past two or three years by means of the enactment of State statutes. Inasmuch, however, as the traffic involves mainly the transportation of women and girls from the country districts to the centers of population and their importation from foreign nations the evil is one which can not be met comprehensively and effectively otherwise than by the enactment of Federal laws.

Investigations conducted by Government agents disclose the fact that a national and international traffic exists in the buying, selling, and exploitation of women and young girls for immoral purposes. This traffic has come to be known the world over as "the white-slave trade." It is referred to by the

Paris conference as "the trade in white

women."

There are few who really understand the true significance of the term "white-slave trade." Most of those who have given only a casual thought to the subject have the impression that women who lead immoral lives in public houses are there voluntarily, either because they are attracted by the excitement of such a life or because they have found it an easy way of earning a living. In many cases such is not the fact. The results of careful investigation into this subject disclose the fact that the inmates of many houses of ill fame are made up largely of women and girls whose original entry into a life of immorality was brought about by men who are in the business of procuring women for that purpose-men whose sole means of livelihood is the money received from the sale and exploitation of women who, by means of force and restraint, compel their victims to practice prostitution. These investigations have disclosed the further fact that these women are practically slaves in the true sense of the word; that many of them are kept in houses of ill fame against their will; and that force, if necessary, is used

to deprive them of their liberty.

The characteristic which distinguishes "the white-slave trade" from immorality in general is that the women who are the victims of the traffic are unwillingly forced to practice prostitution. The term "white slave" includes only those women and girls who are literally slaves—those women who are owned and held as property and chattels-whose lives are lives of involuntary servitude; those who practice prostitution as a result of the activities of the procurer, and who, for a considerable period at least, continue to lead their degraded lives because of the power exercised over them by their owners. In short, the white-slave trade may be said to be the business of securing white women and girls and of selling them outright, or of exploiting them for immoral purposes. Its victims are those women and girls who, if given a fair chance, would, in all human probability, have been good wives and mothers and useful citizens.

The preamble of an existing international agreement on this subject states that the several Governments "being desirous to assure to women who have attained their majority and are subjected to deception or constraint,

as well as minor women and girls, an efficacious protection against the criminal traffic known under the name of trade in white women ('traite des blanches'), have resolved to conclude an arrangement with a view to concert proper measures to attain this purpose."

It is the purpose of the proposed laws, in so far as it may be possible for Congress to do so, to protect women and girls against this criminal traffic by providing for the punishment of those engaged in that traffic and by regula-

tions established by the act.

These statements were also incorporated in the report of the Senate Committee on Immigration (S. Rept. No. 886, 61st Cong., 2d sess.) recommending the passage of the bill.

The evil intended to be remedied is well illustrated by the cases at bar.

In the second case in the order on the docket (No. 588), an innocent young girl is sought to be debauched, through the lure of stage life.

In the first case (No. 381) we find three girls, the youngest only 16, who have already taken the first misstep, being entrapped into a life of prostitution.

In the last cases (Nos. 602 and 603) the transactions referred to concern women who apparently had reached the depths of degradation. The "madame" pays their debts at their former places and the expenses of their transportation to her house, but charges up these items against them. They must, perforce, stay and work out this indebtedness. Practically, they are peons.

## Scope of the Act.

In order to carry out its purpose to suppress this traffic in white women, so far as it comes within its jurisdiction, Congress, as stated in the title to the act, proceeded "to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls."

The several provisions of the act designed to accomplish this result (secs. 2, 3, and 4) will all be found, upon analysis, to be restrictions upon the transportation, in interstate and foreign commerce, of women and girls for the purpose of prostitution or debauchery, or other immoral purpose. They penalize, first, everyone who knowingly engages in such transportation; and, second, everyone who knowingly causes, aids, assists, induces, encourages, or facilitates such transportation. The latter class includes the provisions of section 2 against procuring the means of transportation for women and girls to be used in interstate or foreign commerce in going to any place for the immoral purposes stated, and the provisions of sections 3 and 4 against persuading, inducing, enticing, or coercing women and girls to go from one place to another in interstate or foreign commerce for immoral purposes, with the intent that such women and girls shall engage in the practice of prostitution or any other immoral practice. It will be noted that the offense is not complete under any of the several sections unless the woman or girl concerned shall actually be transported in interstate or foreign commerce.

The act is carefully confined to the evil intended to be remedied—the exploitation of women and girls for private gain—the white-slave traffic. It reaches procurers and panderers and those engaged in conducting immoral houses, shows, etc., who, treating women and girls as subjects of barter and gain, transport or cause them to be transported, or facilitate their transportation, from one State to another, or to a foreign country, for immoral purposes.

The act does not penalize either the voluntary going or coming of women for the purpose of prostitution, nor the act of one who, for charitable or philanthropic reasons, extends aid to an unfortunate female by purchasing transportation for her. Nor would a common carrier or its agents be guilty of violating the act simply by transporting a woman or girl who may intend to engage in prostitution. Only he who does any of the acts mentioned in the statute with the intent and purpose that the woman or girl involved shall engage in a life of prostitution or other immoral practice, is within the letter and spirit of the law. This appears not only from the language used with reference to purpose and intent, but from the insertion of the word "knowingly" in the several provisions of the act. It will be observed that in each of the cases at bar the indictment expressly charges that it was the purpose of the defendant or defendants that the woman or girl transported, or caused to be transported, should engage in the practice of prostitution, or give herself up to debauchery.

Statement of the several propositions which support the White-Slave Traffic Act as a regulation of interstate commerce.

1. The transportation and transit of persons is commerce, persons being both the subject and the means of commercial intercourse.

2. The regulative power of Congress extends to the absolute prohibition of the transportation and transit in interstate or foreign commerce of certain subjects of commerce.

3. The transportation of women and girls for the purpose of prostitution or debauchery or other immoral purpose is one of the kinds of interstate or foreign commerce that may be suppressed by Congress.

4. Having the power to prohibit the transportation of women and girls in interstate and foreign commerce for immoral purposes, and having exercised such power, Congress may make the prohibition effectual by punishing any person who knowingly induces, solicits, or facilitates such illegal transportation.

These propositions will now be discussed in detail. If sound, as they undoubtedly are under the decisions of this court, they dispose of every attack that is or can be made upon the constitutionality of the provisions of the White-Slave Traffic Act involved in these cases.

(16)

 The transportation and transit of persons is commerce, persons being both the subject and the means of commercial intercourse.

This court has long held that the transportation and transit of persons is commerce, and subject to the exclusive regulation of Congress when interstate or foreign.

The statement of Mr. Justice Barbour, in New York v. Miln (11 Pet., 102, 136), that persons "are not the subject of commerce," has never received the sanction of the court. On the contrary, it has been expressly refuted, and the ruling made time and time again that the transportation and transit of persons is commerce.

Passenger Cases (7 How., 282, 429, 431, 436). Henderson v. Mayor of New York (92 U.S., 259).

County of Mobile v. Kimball (102 U.S., 691). Gloucester Ferry Co. v. Pennsylvania (114 U.S., 196).

Pickard v. Pullman Southern Car Co. (117 U. S., 34).

McCall v. California (136 U.S., 104).

Covington and Cincinnati Bridge Co. v. Kentucky (154 U. S., 204).

In the Passenger Cases, Mr. Justice Wayne pointed out why Mr. Justice Barbour's statement that persons were not the subject of commerce did not express the views of the court (7 How., 429, 431, 436); and the ruling in those cases that the statutes of the States of New York and Massachusetts, imposing taxes upon alien passengers arriving in the ports of those States,

was in conflict with the commerce clause of the Federal Constitution, necessarily repudiated such statement.

The other cases above cited also hold that the transportation and transit of persons in interstate and foreign commerce can not be taxed by the States without encroaching upon the exclusive jurisdiction of Congress.

In County of Mobile v. Kimball the court said (102 U. S., 702):

\* \* \* Commerce with foreign countries and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property, as well as the purchase, sale, and exchange of commodities.

This definition was repeated in Gloucester Ferry Co. v. Pennsylvania, where it was said (114 U.S., 204):

\* \* \* And it needs no argument to show that the commerce with foreign nations and between the States, which consists in the transportation of persons and property between them, is a subject of national character, and requires uniformity of regulation.

So, in Pickard v. Pullman Southern Car Co., in declaring a tax by the State of Tennessee on the privilege of running sleeping cars on railroads unconstitutional so far as it applied to interstate transportation of passengers, the court said (117 U. S., 46):

The tax was a unit, for the privilege of the transit of the passenger and all its accessories.

No distinction was made in the tax between the right of transit, as a branch of commerce e States, and the sleeping and between other conveniences which appertained to a transit in the car. The tax was really one on the right of transit, though laid wholly on the owner of the car. So, too, the service rendered to the passenger was a unit. The car was equally a vehicle of transit, as if it had been a car owned by the railroad company, and the special conveniences or comforts furnished to the passenger had been furnished by the railroad company itself. As such vehicle of transit, the car, so far as it was engaged in interstate commerce, was not taxable by the State of Tennessee:

In that case, after referring to State Freight Tax case (15 Wall., 232, 281) and Railroad Co. v. Maryland (21 Wall., 456, 472), the court said (117 U. S., 48-49):

The decisions in the various cases in this court on the subject of a tax by a State on the bringing in of passengers from foreign countries, and which are collected and commented on by Mr. Justice Miller, in delivering the opinion of this court in the Head Money Cases (112 U. S., 580, 591), show it to be a settled matter that to tax the transit of passengers from foreign countries or between the States is to regulate commerce.

The principles which governed the decisions in Welton v. Missouri (91 U. S., 275), Guy v. Baltimore (100 U. S., 434), and Moran v. New Orleans (112 U. S., 69), holding unlawful

the State taxes in those cases on interstate commerce in merchandise, are equally applicable to the tax in this case on the *transit* of passengers.

In McCall v. California the court, in holding that persons engaged in soliciting interstate commerce could not be taxed, quoted with approval the following definition of the word "commerce" made by Pomeroy in his work on Constitutional Law, sec. 378 (136 U. S., 108):

It includes the fact of intercourse and of traffic and the subject matter of intercourse and traffic. The fact of intercourse and traffic, again, embraces all the means, instruments, and places by and in which intercourse and traffic are carried on, and, further still, comprehends the act of carrying them on at these places and by and with these means. The subject matter of intercourse or traffic may be either things, goods, chattels, merchandise, or persons. All these may, therefore, be regulated.

In Covington, etc., Bridge Co. v. Kentucky it was held that mere travel was commerce, the court, referring to Gloucester Ferry Co. v. Pennsylvania (114 U. S., 196), saying (154 U. S., 218, 219):

\* \* \* If, as was intimated in that case, interstate commerce means simply commerce between the States, it must apply to all commerce which crosses the State line, regardless of the distance from which it comes or to which it is bound, before or after crossing such State line—in other words, if it be com-

merce to send goods from Cincinnati, in Ohio, to Lexington, in Kentucky, it is equally such to send goods or to travel in person from Cincinnati to Covington; \* \* \* Commerce was defined in Gibbons v. Ogden (9 Wheat., 1, 189) to be "intercourse," and the thousands of people who daily pass and repass over this bridge may be as truly said to be engaged in commerce as if they were shipping cargoes of merchandise from New York to Liverpool.

In the Lottery Case (188 U.S., 321, 352), after referring to previous decisions, the court said:

\* \* \* They show that commerce among the States embraces navigation, intercourse, communication, traffic, the transit of persons, and the transmission of messages by telegraph.  The regulative power of Congress extends to the absolute prohibition of the transportation and transit in interstate or foreign commerce of certain subjects of commerce.

Lottery Case (188 U.S., 321).

In the Lottery Case it was held to be within the power of Congress to prohibit the transportation in interstate commerce of lottery tickets, because of the immoral nature of lotteries. The court in that case refers to several other instances of the fact that the regulation of interstate commerce might sometimes appropriately assume the form of prohibition, namely, the statutes of the United States prohibiting the transportation and transit of diseased cattle, the Sherman Anti-trust Act, and the statutes subjecting liquor shipped in interstate commerce to the laws of the several States upon its arrival therein.

The Lottery Case establishes the principle that it is equally within the power of Congress, in regulating interstate commerce, to protect the public morals as it is to protect the public health or the economic welfare of the people, and it is upon this principle that the White-Slave Traffic Act rests.

This court has also repeatedly recognized the authority of Congress to regulate the transit of persons, in interstate and foreign commerce, to the extent of prohibition, by quarantine regulations.

Gompagnie Francsise etc. v. Board of Health (186 J.S., 360,387,389).  The transportation of women and girls for the purpose of prostitution or debauchery or other immoral purpose is one of the kinds of interstate or foreign commerce that may be suppressed by Congress.

Clearly, if Congress has the power to prohibit the transportation of lottery tickets in interstate or foreign commerce because of the immoral nature of lotteries, it may also prohibit the transportation in such commerce of women and girls for immoral purposes, a far more invidious practice, persons, as above shown, being the subjects as well as the means of commerce, and their transportation and transit in interstate or foreign commerce a matter of Congressional control.

The act is not an encroachment upon the police powers of the States. It merely aids the States in the enforcement of their own laws on the subject of immorality, prohibiting that which the State can reach, if at all, only in part; for while the State might prohibit immoral practices within its limits, its power to prevent the introduction of immoral persons is limited.

It is true that the States alone can regulate the practice of prostitution therein. (Keller v. United States, 213, U. S. 138.) But the States alone can regulate the lottery business therein. So far, however, as either is conducted through the channels of interstate or foreign commerce, it becomes a matter of Congressional regulation.

It is also immaterial that the States may, perhaps, under their police powers, prohibit prostitutes or other immoral persons from coming or being transported into their limits. Assuming that they have such power, that fact does not remove the subject of Congressional control. The States may enact proper quarantine laws with respect to cattle and, to a certain extent at least, regulate their interstate or foreign transportation. Nevertheless, such transportation is a matter primarily for regulation by Congress.

Reid v. Colorado (187 U. S., 137). Lottery Case (188 U. S., 358-359).

But State regulation can not reach those who, beyond its limits, solicit and induce women and girls to come within its jurisdiction for immoral purposes—the thing which is the primary object of the White-Slave Traffic Act. Federal regulation is necessary to bring about the desired result.

Nor is the White-Slave Traffic Act an unwarranted invasion of personal liberty. As said in Addyston Pipe & Steel Company v. United States (175 U. S., 229), the provision of the Constitution protecting a person from being deprived of his liberty without due process of law "is, to some extent, limited by the commerce clause of the Constitution." It was therefore held in that case that under that clause certain forms of private contracts could be prohibited.

In the Lottery Case the court said that no clause of the Constitution "can be cited which, in any degree, countenances the suggestion that one may, of right, carry or cause to be carried from one State to another that which will harm the public morals;" that a lottery "is a kind of traffic which no one can be entitled to pursue as of right;" and that the court "should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, can not be met and crushed by the only power competent to that end" (188 U.S., 356, 357, 358). These observations are certainly equally pertinent here.

In Reid v. Colorado it was said that no one is given by the Constitution "the right to introduce into a State, against its will, live stock affected by a contagious, infectious or communicable disease, and whose presence in the State will or may be injurious to its domestic animals;" that "the State—Congress not having assumed charge of the matter as involved in interstate commerce—may protect its people and their property against such dangers" (187 U. S., 151).

The plenary power of Congress over the subject matter mentioned was thus recognized. Will it be said that Congress, if it chooses to act, can not protect the people of the several States against the introduction of women and girls for the purposes of prostitution and debauchery—that the law affords greater security to cattle than it does to persons?

4. Having the power to prohibit the transportation of women and girls in interstate and foreign commerce for immoral purposes, and having exercised such power, Congress may make the prohibition effectual by punishing any person who knowingly induces, solicits, or facilitates such illegal transportation.

The great body of our criminal law has been enacted by Congress without express authority other than that contained in the general provision of the Constitution giving it power to enact all laws necessary to carry into effect the powers specifically vested in the Federal Government (Const. Art. I, sec. 8, cl. 18). Not only has Congress the power, under this provision, to punish the doing of acts inimical to the public welfare, but it may go further and reach such acts in their very inception—punish those who conceive or induce such illegal acts. This is illustrated by the statutes punishing conspiracy, perhaps the most important, because the most effective, of all our criminal legislation. Thus, in order to maintain the freedom of interstate commerce, Congress, in the Sherman Anti-Trust Act, has penalized those who conspire, as well as those who contract and combine, to restrain such trade and commerce. So, in the White-Slave Traffic Act (with the opposite purpose in viewnamely, the suppression of that particular form of commerce), Congress has sought to go to the very root of the matter by punishing those who induce, solicit, or facilitate the transportation in interstate and foreign commerce of women and girls for immoral purposes, as well as those who actually transport or cause them to be transported for such purposes.

The power of Congress effectively to regulate interstate commerce by reaching unlawful acts in their very inception is illustrated, conversely, by the case of *Hipolite Egg Co.* v. *United States* (220 U. S., 45), where its authority to direct the seizure and condemnation of prohibited articles in interstate commerce at their point of destination was upheld as an appropriate means for the enforcement of the prohibition.

So, because the *solicitation* of interstate commerce is a matter of Federal regulation exclusively, the State can not impose a license tax thereon.

Robbins v. Shelby Taxing District (120 U.S., 489).

Asher v. Texas (128 U.S., 129).

In McCall v. California (136 U.S., 104) it was held that an agency created in San Francisco for the purpose of inducing passengers to travel over a certain interstate route was engaged in interstate commerce, and a State license tax on such an agency unconstitutional.

The provision of the act with reference to persons purchasing tickets for women and girls for the purpose of being transported in interstate or foreign commerce for immoral purposes, and those relating to the persuasion, inducement, enticement, or coercion of women and girls to go and be transported in such commerce, are similar to the provisions in the immigration laws making it an offense to assist, encourage, or solicit the importation or migration of alien con-

tract laborers. (Act of Feb. 20, 1907, 34 Stat., 898, secs. 4, 5, 6 and 7.)

In United States v. Craig (28 Fed., 795) the Circuit Court for the Eastern District of Michigan sustained the constitutionality of the corresponding provisions of the immigration act of February 26, 1885, on the subject of assisting, encouraging, or soliciting the immigration or importation of alien contract laborers. In that case Mr. Justice Brown, after pointing out that the definition of the word "commerce" by the lexicographers as "an exchange of commodities" had been rejected by this court and the term "held to include all navigation and intercourse—to the transportation of passengers as well as property," said (ib., 798-799):

It is claimed, however, that this act is not a valid exercise of the power of regulating commerce, inasmuch as it forbids the encouragement and solicitation of an act which still continues to be perfectly lawful in itself, viz. the immigration of alien laborers. We think this criticism is unfounded. The motives and history of the act are matters of common knowledge. It had become the practice for large capitalists in this country to contract with their agents abroad for the shipment of great numbers of an ignorant and servile class of foreign laborers, under contracts, by which the employer agreed, upon the one hand, to prepay their passage, while, upon the other hand, the laborers agreed to work after their arrival for a certain time at a low rate of wages. The effect of this was to break down the labor

market, and to reduce other laborers engaged in like occupations to the level of the assisted immigrant. The evil finally became so flagrant that an appeal was made to Congress for relief by the passage of the act in question, the design of which was to raise the standard of foreign immigrants, and to discountenance the migration of those who had not sufficient means in their own hands, or those of their friends, to pay their passage. While the act is undoubtedly, to a certain extent, a reversal of the traditional policy of the Government, it does not purport to inhibit or discourage the immigration of foreign laborers in general, but only the importation of such laborers under contracts made previous to their migration or importation. It seeks to effect this by declaring (1) that the prepayment of transportation, or the assistance or encouragement of the migration, of aliens or foreigners under contracts to labor in the United States shall be unlawful; (2) that such contracts made previous to their migration shall be void: (3) that every person or corporation guilty of unlawfully assisting or encouraging the immigration of such laborers shall be subject to a penalty; (4) that the master of any vessel knowingly bringing such laborers into the country shall be deemed guilty of a misdemeanor.

It was undoubtedly competent for Congress to have gone still further, and provided for the return of such laborers to their own country, as was done in the other acts inhibiting the entry of lunatics, paupers, and Chinese; but the act is not to be deemed unconstitutional because the legislature has not seen fit to use all the weapons it held in its hands, or apply unnecessarily harsh remedies. Indeed, except in this particular, the act does not differ materially from the other acts upon the same general subject, and is strictly in line with them. In each of them the immigration is directly or indirectly declared to be unlawful. though in none of them is any attempt made to punish the immigrant. While this does not declare in express terms that the immigration of foreigners under contracts to labor here shall be deemed unlawful, the whole tenor of the statute indicates this to be its purpose. though the penalty is visited only upon the party who aids and assists the immigrant. But, conceding that the contract only is illegal and void, and the immigration lawful, we know of no principle which forbids Congress from declaring that a certain method of procuring the immigration of foreigners shall be unlawful, and imposing a punishment upon those who adopt that method. While the case is one of considerable public interest, the constitutionality of the act is too clear to require an elaborate consideration.

It will be observed that these remarks of Mr. Justice Brown completely dispose of the argument that the White-Slave Traffic Act is invalid because it does not go so far as to prohibit the voluntary transit of women and girls in interstate or foreign commerce for immoral purposes. As above pointed out, the act is aimed at a very different and far more reprehensible

thing—the exploitation of women and girls for private gain. It is to reach this nefarious traffic—which is plainly subject to the control of Congress so far as it is conducted through the channels of interstate or foreign commerce—that not only the transportation of women and girls for immoral purposes is prohibited, but the acts of enticing, soliciting, and inducing them to go and be transported for such purposes, and of furnishing them with the means of transportation.

It is respectfully submitted, therefore, that the several provisions of the White-Slave Traffic Act, upon which the indictments in these cases were founded, are constitutional.

## THE CASE OF EFFIE HOKE AND BASILE ECONOMIDES.

#### STATEMENT OF CASE.

Plaintiffs in error were indicted for violating the White-Slave Traffic Act in knowingly persuading, inducing, and enticing three young girls to go from New Orleans, La., to Beaumont, Tex., for the purpose of prostitution, and thereby causing, aiding, or assisting in causing their transportation as passengers upon an interstate common carrier between the two points.

The first two counts of the indictment were based upon section 3 of the act, and the third count upon section 4, the girl therein referred to (Gertrude Baden) being under the age of 18 years.

Demurrers to the indictment and motions to quash the same on the ground of the unconstitutionality of the White-Slave Traffic Act were made and overruled. (R., 11-16.)

Both defendants were convicted upon all three counts and sentenced to imprisonment in the penitentiary for two years on each count, the sentences to run successively (R., 9-10). Thereupon this writ of error was sued out.

The following statement of the evidence adduced at the trial may be helpful in considering some of the questions of law raised on this writ of error:

Effie Hoke, one of the defendants, testifying in her own behalf, stated, among other things, that she had been a prostitute for about 15 or 16 years; the madame of a sporting house in Beaumont, Tex.; and that on her trip to New Orleans, La., she visited many of the assignation houses there. (R., 287, 289, 301.)

Basile Economides, the other defendant, also testified on his own behalf, and stated, among other things, that he conducted a saloon and wine room in New Orleans, La., that his place was patronized by "common women and streetwalkers," and that no "respectable women" came to his place (R., 262); also that he knew that Effie Hoke, his codefendant, was a "sporting woman." (R., 268.)

The three girls whom these defendants were charged with inducing or persuading to go from New Orleans, La., to Beaumont, Tex., for purposes of prostitution, were named Annette, Florence, and Gertrude Baden, aged 20, 18, and 16 years, respectively.

Annette testified, in substance, that when she and her sister Florence were passing the saloon of Economides, he called to them to come in. They passed on, but he sent a small boy to call them back. Annette went back, and Economides told her to go and get Florence. Florence returned and joined them, they all indulging in drinks. Economides told them he wanted them to meet "a lady friend" of his, and that he had 'phoned for her. In about 20 minutes Effie Hoke came in, and they all drank together. Economides said to the girls, "Here is the lady from Beaumont I wart you to meet," and to Effie Hoke he said, "Miss Effie, these are the girls I have been

telling you about." After further drinking, Economides said to this witness, "You have another sister, Gertrude; go get her." The witness told them she did not want her little sister along, but Effie Hoke said, "Yes, here is 50 cents, go get Gertrude." Florence went and got Gertrude. Effie Hoke told them that she had a private boarding house in Beaumont "and there was no reason for working for \$5 a week when salesladies could get \$15 a week in Beaumont." Economides said his lady friend would treat them nice; that she had a private boarding house, and that they "would be well taken care of-just like a mother." After the girls decided to go, Economides phoned for a cab, which took them first to "Miss Pauline's." Economides told them to tell Effie Hoke that they owed their landlady \$12, and when asked why they should do this, when it was not true, he said that when they got to Beaumont, they might want to come back sometime and he would send them the \$12 to come back on: that the taxicab was paid for by Effie Hoke. Effie Hoke then sent a girl along to take them to Beaumont, giving her the money to pay the fares. They then went to the Union Station and took the train. remaining thereon until they reached Beaumont. They went to Effie Hoke's house in Beaumont, in a taxicab, and found for the first time that it was a house of prostitution. They wanted to come back, but were prevented by Effie Hoke, who told them that they owed her \$6; that she had given Economides \$8.35 each for railroad fare, and that their

board started that day. She subsequently took the clothes of two of the girls, and locked them up, with the statement that they could leave when they paid what she claimed they owed her. (R., 17 to 30.)

This witness admitted on cross-examination that she had previously visited hotels for the purpose of meeting men there (R., 45 and 53), and was not virtuous prior to going to Beaumont. (R., 74.) That Economides had tried to get her and Florence to live with "Miss Pauline" (R., 75), who kept an assignation house. (R., 23.)

The testimony of the other two sisters, Florence and Gertrude, is substantially to the same effect. (R., 79-136.) They also admitted on cross-examination that they were not virtuous prior to going to Beaumont. (R., 108, 132.)

Theresa Flood, who took these girls to Beaumon at the instance of Effie Hoke, testified that Effie told her she had two girls and possibly three that she wanted her to take over to Beaumont; that Effie gave her \$45 to pay their fares over (R., 172–173); that she took them to the Union Station and bought tickets over the Southern Pacific, reaching Beaumont the next morning. (R., 173, 174.)

Ouida Landry testified that Effie Hoke told her, at the time of Effie's visit to New Orleans, that there was to be a "big carnival" in Texas, and that she wanted some girls; that she would give her \$10 apiece to get them (R., 185); she heard these girls when they reached Effie Hoke's house in Beaumont tell her that they wanted to go home, and Effie told

them she "was out about \$500 on her trip to New Orleans" (R., 187); that they must pay her what they owed, and that they could not leave until they paid (R., 188); that she admitted she was a prostitute. (R., 192.)

It is unnecessary to narrate the testimony of the other witnesses, many of whom contradicted much of that of the above witnesses, because the cases are here on writ of error, and this court will not undertake to weigh the evidence. (Crumpton v. United States, 138 U. S., 361, 363.) Nor would the rule be different if this court believed there was reasonable doubt as to the guilt of the defendants. (Johnson v. United States, 157 U. S., 320, 326.)

#### ABGUMENT.

I.

Plaintiffs in error contend first that there is a variance in that the indictment charged that the girls were transported over the Texas & New Orleans Railroad and the proof merely showed their transportation over the Southern Pacific Railroad.

An examination of the indictment shows that it describes the Texas & New Orleans Railroad Co. as a part of the Southern Pacific Railway system, so that proof of transportation by the latter system between New Orleans, La., and Beaumont, Tex., the points named in the indictment, would seem to reduce the variance, if any, to a mere technicality, which could not in any view of the case be said to have misled the accused. The particular railroad in this

came represents the means used by the accused in committing the offense, and proof of any common carrier would suffice, by analogy to the rule that where an indictment charges a murder by poisoning and specifies the poison, proof that death was brought about by a different poison would not constitute a material variance. (Westmoreland v. United States, 155 U. S., 545, 549.)

#### II

The second and third assignments of error may be considered together, because they both relate to the third count of the indictment, which charges the accused with inducing or persuading Gertrude to go to Beaumont for purposes of prostitution.

It is first alleged that the evidence does not show that the accused induced or persuaded Gertrude to take the trip. In view of the testimony upon this point (R., 21 and 133), the determination of this question would seem to require a weighing of the evidence, which, as heretofore pointed out, this court will not undertake in a case before it on writ of error.

Exception is also taken to that part of the court's instructions to the jury, bearing upon the question of agency between Florence and the accused in inducing Gertrude to go to Beaumont.

The court's instruction upon this point is as follows (R., 353):

With reference to the third count in the bill of indictment, if the jury find from the evidence that the witness Florence Baden. alias Florence Hays, persuaded her sister Gertrude to come to Beaumont, but you believe from the evidence beyond a reasonable doubt that in so doing she acted for the defendants and at their request, then I inform you, as a matter of law, that the act of Florence in trying to persuade, induce or entice her sister Gertrude to make the interstate journey would be the act and statement of the defendants or the one of them who requested her to see and persuade Gertrude. and the defendants, or the one of them who made the request, if after being made, Florence acted upon it, would be liable and bound by the persuasion, inducement or enticement that Florence offered to Gertrude, but the court tells you, furthermore, that if Gertrude came of her own accord, or through the persuasion of her sister Florence, and you do not find that Florence in so persuading her, was acting for the defendants, then the defendants can not be convicted on count three, and it would be the duty of the jury to acquit them upon that count if you find that to be true.

This was clearly a correct statement of the law, and fully protected the rights of the accused.

## III.

In their fourth assignment of error, accused complain of the refusal of the court to grant certain requested instructions.

A reading of the court's charge, as a whole, shows not only that it carefully covers all the requested instructions which it would have been otherwise proper to grant, but that it was most favorable to the accused.

#### IV.

Under the fifth assignment of error objection is made to the reception in evidence of the testimony of the girls as to the treatment accorded them and the life they lived after they reached Effie Hoke's house in Beaumont.

Certainly this evidence sheds light upon the intention of the accused in inducing these girls to go to Beaumont, and was therefore properly admissible; The court was careful to caution the jury with respect to the extent to which they could consider such testimony. (R., 31, 350 and 351.)

#### V.

The sixth assignment of error excepts to the action of the court in excluding certain evidence offered by the accused for the purpose of showing that the girls were prostitutes prior to their going to Beaumont.

This evidence was clearly immaterial, because the act, while designed to protect the innocent and virtuous, is not limited to them. The purpose of the act is to break up the traffic in white women and girls—to prevent even fallen women from being enslaved; to release them from the clutches of procurers and panderers.

#### VI.

The contention, raised in the brief filed on behalf of Economides, that, under the statute, "there must be some actual, overt, tangible act of assistance in the taking of the journey, such as lending them (the girls) money for their passage, or the purchasing of the tickets for them, and the like," would seem to require no extended discussion.

Even though the construction contended for be correct, still, as pointed out by the lower court, it was within the province of the jury to find from all the evidence that a common design or scheme existed between the two accused to induce the girls to go by an interstate common carrier to Beaumont, Tex., for purposes of prostitution, in which event the act of one of the defendants in causing the girls to take the trip would be equally the act of the other.

This point was carefully covered by the court in its charge to the jury. (R., 350.)

#### No. 588.

THE CASE OF LOUIS ATHANASAW AND MITCHELL SAMPSON.

#### STATEMENT OF CASE.

These men were charged (in an indictment containing thirty-eight counts) with violating section 2 of the White-Slave Traffic Act by having transported or assisted in obtaining transportation for a girl named Agnes Couch, from Atlanta, Ga., to Tampa, Fla., "for the purpose of debauchery."

Defendants demurred to the indictment, challenging the constitutionality of the act and alleging that the indictment failed to specify the persons sought to be debauched; that it failed to charge that the purpose of debauchery existed in the minds of defendants prior to or during the transportation, and did not charge that the girl was actually transported in interstate commerce. (R., 11–12.)

The demurrer was overruled and defendants were tried and convicted, a general verdict of guilty as charged in the indictment being rendered. (R., 12–13.) Athanasaw was sentenced to imprisonment for two years and six months, and Sampson for one year and three months, in the penitentiary. (R., 13.)

A motion in arrest of judgment, based upon substantially the same grounds as the demurrer to the indictment, was overruled. (R., 13-14.)

At the trial Agnes Couch gave her age as 17 years, and said she lived at Suwanee, Ga. (R., 23.) She testified that in September, 1911, she was in Atlanta, Ga., and seeing an advertisement of Sam Massell for chorus girls, she applied at his office in Atlanta and signed a contract "to appear with the 'Imperial Musical Comedy Co.' at the Imperial Theater, Tampa, Fla., as a chorus girl," at a salary of \$20 a week for the first four weeks, and \$15 a week thereafter, she to board and room in the theater. (R., 23, 27.) The Imperial Theater was operated by the defendants, and Massell acted as their "booking representative" at Atlanta. (R., 27, 29.) After she signed the contract, Massell gave her a railroad ticket to Tampa which had been provided by the defendants for that purpose. (R., 23, 29.) She further testified (R., 23-24):

> \* After I signed the contract Massell gave me a ticket from Atlanta, Ga., over the Southern and Seaboard Railways to Tampa. Fla., and I came with my trunk from Atlanta. Ga., to Tampa, Fla., over the railways above mentioned. I arrived in Tampa, Fla., on the 7th of September, 1911, at about 6.30 o'clock, and I went to the Imperial Theater and there met Mr. Louis Athanasaw, one of the defendants, at 7 o'clock. He showed me my room and took the check to get my trunk. I went to sleep and slept until 2 o'clock in the after-At that hour one of the girls awoke me up to rehearse. I went down in the theater and stayed there about an hour rehearsing, singing, and then went to lunch in

the dining room. All of the girls were there and several boys. I had never had any stage experience. At lunch they were all smoking, cursing, and using such language I couldn't eat. After lunch I went to my room, and about 6 o'clock Louis Athanasaw, one of the defendants, came and said to me I would like it all right; that I was good looking and would make a hit, and not to let any of the boys fool me, and not be any of the boys' girl; to be He wanted me to be his girl; to talk to the boys and make a hit, and get all of the money I could out of them. His room was next to mine, and he told me he was coming in my room that night and sleep with me; and he kissed and caressed me. He told me to dress for the show that night and come down into the boxes. I went into the box about 9 o'clock. About that time Louis Athanasaw's son knocked on my door and told me to come to the boxes. In the box where I went there were four boys; they were smoking, cursing, and drinking. I sat down and the boys asked me what was the matter, I looked scared. I told them I was ashamed of being in a place like that; and Arthur Schlemann, one of the boys, said he would take me out. The others insisted on my staying, and said I would like it when I got broke in. I tried to go out with Schlemann, but a boy named Gilbert pulled me back, saying "Let that cheap guy alone." Schlemann said he would send a policeman, and in about 15 minutes Mr. Thompson and Mr. Evans came in for me. Mr. Louis Athanasaw

asked what the trouble was; why I would not stay until morning, when he would send me away if I spent the night; he said I could not go that night; and he said I could not have my trunk, he had held it for transportation. I went away with Mr. Thompson and Mr. Evans. The boxes in that theater were looking over the stage; with a little opening looking onto the stage. There was a door in the back of it that could be closed and bolted. They were on the second floor. There were some chairs and a table in it.

Defendant Athanasaw denied that he made improper proposals to Agnes Couch, but in other essential respects the girl's testimony was not contradicted, and was supported, as to the character of the place and what took place, by the testimony of Arthur Schlemann (R., 24) and L. W. Evans (R., 25).

#### ARGUMENT.

The refusal of the court to grant a new trial can not be assigned as error. (Addington v. United States, 165 U. S., 185; Wheeler v. United States, 159 U. S., 523, 524.)

The other errors assigned concern instructions to the jury.

It is alleged that the court erred in refusing to instruct the jury that, before they could find defendants guilty, they must be satisfied that they had the intent, at the time of procuring the transportation of Agnes Couch from Atlanta to Tampa, to debauch her, or to procure her debauchment by some other person, or to induce, entice, or compel her to give herself up

to debauchery. The court properly refused this instruction. The indictment did not charge that defendants, or either of them, intended to debauch the girl or to procure any other person to debauch her. It charged, in the language of the act, that they knowingly procured her transportation in interstate commerce "for the purpose of debauchery" or with the intent to induce, entice, or compel her "to give herself up to debauchery."

It is also alleged that the court erred in refusing to charge the jury "that the word 'debauch,' as used in the act of Congress under which the defendants are indicted, and in the indictment in this case, means sexual intercourse between a man and a woman."

The statute does not use the word "debauch," but "debauchery," and the indictment followed the statute.

The other errors assigned relate, in the main, to the court's definition of debauchery and the instruction, in substance, that the jury should judge of defendants' intent from the conditions in which they placed Agnes Couch.

It is submitted that the charge to the jury conveyed a correct conception of the law. The court defined debauchery (R., 35) as—

\* \* \* an excessive indulgence of the body; licentiousness, drunkenness, corruption of innocence, taking up vicious habits. The term debauchery as used in this statute has an idea of sexual immorality; that is, it has the idea of a life which will lead eventually or tends to lead to sexual immorality.

The jury were instructed to consider whether the influences in which the girl was surrounded by the employment which defendants called her to "did or did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily and naturally would lead to a course of immorality sexually." Continuing, the court said (R., 35):

You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was employed. You have examined by the testimony and your observation what was the character and what was the condition or influences in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman?

As the court said (R., 34), it is to a certain extent a case of circumstantial evidence. The intent of defendants must necessarily be presumed from the position in which they placed the girl. In a case charging the transportation of a girl in interstate commerce for the purpose of prostitution, in violation of this act, it doubtless would be sufficient proof of intent merely to show that defendant placed the girl in a house of prostitution. So in this case, defendants' intent that the girl should give herself up to debauchery is to be presumed if they placed her in a position where the influences naturally and inevitably tended to lead to debauchery.

#### Nos. 602 and 603.

THE CASES OF EMMA HARRIS ET AL., AND DELLA BENNETT.

#### STATEMENT OF CASES.

In the Harris case, the first count of the indictment charged that the defendants unlawfully and knowingly caused to be transported, and aided and assisted in so causing to be transported, from Charleston, W. Va., to Cincinnati, Ohio, two certain women, for the purpose of prostitution—a violation of section 2 of the act.

The second count charged the purchase of railroad tickets for the transportation of said women for the purpose stated—also a violation of section 2 of the act.

The third count charged the defendants with persuading, inducing, enticing, and causing to be persuaded, induced, and enticed, said women to go from Charleston, W. Va., to Cincinnati, Ohio, for the purpose of prostitution, and thereby knowingly causing and aiding and assisting in causing said women to go and be transported as passengers upon a common carrier by railroad engaged in interstate commerce—a violation of section 3 of the act.

The indictment in the Bennett case likewise contained three counts, framed as in the Harris case, charging violations of sections 2 and 3 of the act by

the defendant in causing two certain women to go and be transported from Chicago, Ill., to Cincinnati, Ohio, for the purpose of prostitution.

By motions and demurrers the constitutionality of the White-Slave Traffic Act and certain questions as to evidence, etc., were raised in the trial court. These were overruled, and the defendants, upon their pleas of not guilty, were tried separately and convicted upon each count of the respective indictments.

The Circuit Court of Appeals, upon writs of error, affirmed the judgment of the District Court in each case. (R., No. 602, p. 73; R., No. 603, p. 89.) The cases are here upon writ of error and writ of certiorari.

#### ARGUMENT.

I.

#### The writs of error should be dismissed.

These being cases where the jurisdiction of the District Court depended solely upon the fact that they arose under the *criminal* laws, the judgment of the Circuit Court of Appeals was final, and no appeal lay to this court.

Macfadden v. United States, 213 U.S., 288.

In addition to what was said in the Macfadden case, it is to be observed that the amount of money necessary to authorize an appeal to this court is not involved. In Spreckels Sugar Refining Company v. McClain (192 U. S., 397, 408-9), where the jurisdiction of this court was sustained, that being a revenue case, the court took care to point out that the requisite jurisdictional amount was involved.

As to variance between allegations and proof respecting the names of the women charged to have been transported.

The indictment in the Harris case charged the transportation of Stella Larkins and Nellie Stover, and in the Bennett case the transportation of Opal Clark and Eva Parks. Larkins, Stover, and Clark were prosecuting witnesses. When asked to give their names to the jury, they gave the names as in the indictments. (R., No. 602, pp. 18, 32; R., No. 603, p. 18.) On cross-examination Larkins admitted her real name to be Estella Bowles, but said she always went by the name of Stella Larkins ever since she "went in bad." (R., No. 602, p. 25.) Nellie Stover, on cross-examination, admitted her real name to be Myrtie Watson. (R., No. 602, p. 37.) On redirect examination she testified as follows (R., No. 602, p. 41):

Q. What was the name you were known by in West Virginia?—A. Nellie Stover.

Q. And what was the name Bessie Green was known by?—A. Bessie Green.

Q. And Stella Larkins; what was the name she was known by?—A. Stella Larkins.

It should be noted here that the record does not show that any exception was taken to this alleged variance in the Harris case at the trial. It can not, therefore, be assigned as error in this court. (Railway Co. v. Heck, 102 U. S., 120; Morrill v. Jones, 106 U. S., 466, 467.)

In the Bennett case the Clark woman gave her name as Opal Clark; said she formerly was known as Jeanette Clark, but she changed it to Opal Clark "along before Christmas." (R., 18, 19.) On cross-examination she admitted her right name to be Laplante, by marriage in 1905. (R., 30.)

The names given in the indictments were those by which the women were popularly known. To have given the real names would obviously have been misleading to defendants. That there was no doubt in the minds of defendants as to the identity of these women is shown by the cross-examinations, which revealed a thorough knowledge of their past life as prostitutes and showed that they were fully prepared for the trial.

In People v. Plyler (121 Cal., 160), the defendant was charged with having committed a crime upon Charles Harris, whose real name was shown upon the trial to be Isaac Crossley. The court said (p. 163):

This complaint and information alike charged a crime committed upon Charles Harris. Harris testified that such was the name by which he had always been known in the community. Here was no variance. There was an absolute identity in names and person, and the fact disclosed upon the trial for the first time that the complaining witness' true name was something different did not constitute a variance, and could not have injured defendant in the slightest degree.

In State v. Brecht (41 Minn., 50, 54) the court said:

As names are given to persons for the purpose of identifying them, it follows that, if a person is equally well known by either of two different names, either may be used where the purpose is merely that of pointing out the person intended.

See also Putnam v. United States (162 U.S.,

687, 691).

Faust v. United States (163 U. S., 452, 454). Com. v. Warren (167 Mass., 53).

Reg. v. Gregory (8 Q. B., A. & E., 508, 514). Beale Cr. Pl. & Pr. (sec. 121).

#### II.

## As to the sufficiency of the evidence against Emma Harris.

The evidence adduced at the trial clearly justifies the inference that Emma Harris, who kept a house of prostitution in Cincinnati, Ohio (R., 42), sent Bessie Green, one of the inmates (R., 47), and also a codefendant, to Charleston, W. Va., for the purpose of securing girls to enter her house, she to bear all the expenses incident thereto, and that, in pursuance of such arrangement the girls named in the indictment, Stella Larkins and Nellie Stover, were induced to come to Cincinnati.

Both Emma Harris and Bessie Green testified that it was only four or five days after she left the Harris house in Cincinnati until she returned with the two girls. (R., 45, 52.)

Stella Larkins testified that she lived in a "sporting house" in Charlestown, W. Va.; that while downtown one day she had occasion to telephone to the house and was told that a woman was there to see her; that she returned and was thereupon introduced to Bessie

Green; that they talked about coming to Cincinnati, and Bessie said she would pay her indebtedness to her landlady-about \$30-if she (Stella) would go, whereupon she agreed to go; that Bessie paid her landlady \$15, and said she would send the rest; that her trunk was sent to the house of Emma Harris in Cincinnati; that after stopping to get the other girl, Nellie Stover, they all three went to the depot; that Bessie paid for her ticket and all thereupon boarded the train and came to Cincinnati; that upon reaching Cincinnati they went direct to the house of Emma Harris, who told her it was a good place to make money; that her trunk reached there the next day, Emma Harris paying the \$15 due on it, charging it up against her, together with the railroad fare; that altogether she had charged her up with about \$38. (R., 18, et seq.)

Nellie Stover, the other girl, testified that Bessie Green came to the sporting house at which she was staying, and she asked her if she was looking for girls, to which Bessie replied that she was; that she told Bessie she would like to go to Cincinnati if she were not indebted to her landlady to the extent of \$15; that Bessie said she would pay it; that they went to the depot, Bessie paying the railroad fare; that after reaching Cincinnati went to the house of Emma Harris, who said that she hoped she (Nellie) would like it there, and that it was a good house to make money; that her trunk subsequently arrived, and Emma Harris paid the charges on it—\$15.50—and then entered it and

the railroad fare in a book against her. (R., 32 et seq.)

Lemuel Watson testified that Emma Harris told him she had paid the charges on the trunk of the Larkin girl, and showed him her account book to that effect. (R., 55.)

This court will not undertake to weigh the evidence on writ of error (Crumpton v. United States, 138 U. S., 361), or certiorari (Delk v. St. Louis and San Francisco Railroad Company, 220 U. S., 580, 588, 589).

There was a general verdict and sentence, and, if any count of the indictment supports the judgment, it will not be disturbed. (Claassen v. United States, 142 U. S., 140, 146.)

The sentence imposed upon Harris was not in excess of that which might have been imposed under any one of the counts. (R., 10.)

## III.

## Other alleged errors in the Bennett case.

1. Counsel for Bennett contends that the trial court erred in refusing to instruct the jury to return a verdict of not guilty on the second count of the indictment, for the reason that it was alleged therein that the tickets were procured at Chicago, whereas the testimony showed that they were procured at Cincinnati.

Obviously counsel has failed to observe the clear and specific allegations of this count. It charges that Della Bennett on or about September 25, 1910, in the County of Hamilton, Ohio, "did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained, at the city of Chicago, in the State of Illinois, two certain railroad passenger tickets," etc. The evidence showed that Bennett paid for the tickets at Cincinnati and arranged for them to be furnished to the women at Chicago. (R., 46-48.)

- 2. The indictment against Bennett charges that she caused the transportation of two women, Opal Clark and Eva Parks. It is contended that there was no testimony to show a violation of the law with respect to Eva Parks. This ignores the fact that the Parks girl used a ticket in going from Chicago to Cincinnati furnished by Bennett. While it does not appear that Bennett knew that the ticket was to be used by Parks, or indeed by any particular person, nevertheless the evidence shows that the ticket was furnished for the purpose of bringing some woman from Chicago to Cincinnati in violation of law. (R., 25, 48.) Upon their arrival at Cincinnati both Clark and Parks went to Bennett's house of prostitution, where Clark remained for three weeks and Parks longer. (R., 26-27.)
- 3. It is contended that the trial court erred in refusing to charge the jury that, if they found from the evidence that either of the women were not transported for the purpose of prostitution, the defendant should be acquitted on the first count of the indictment. It is claimed that this charge was justified in view of the testimony of the Clark woman that she and the Parks woman intended to go on the stage in Cincinnati and Toledo.

The testimony of Opal Clark was that they came to Cincinnati for the purpose of prostitution, "but we meant afterwards to go from there to Toledo on the stage." (R., 43.)

4. Error is assigned to the refusal of the court to instruct the jury that if they should find from the testimony that defendant did not persuade, induce, and entice Opal Clark and Eva Parks to come from Chicago to Cincinnati for the purpose of prostitution and with the intention that each should engage in acts of prostitution in Cincinnati, defendant should be acquitted.

Such a charge manifestly would have been improper. It would have meant a total disregard of the first and second counts of the indictment based upon the provisions of section 2 as to transportation, under which persuasion, inducement or enticement are not elements of the offense.

5. Error is also assigned to the refusal of the court to charge the jury as follows:

If the jury finds from the testimony that only one woman was transported, or that the defendant was guilty of the acts charged in all three counts of the indictment against one woman who is mentioned in the indictment and not against both, it is your duty to acquit the defendant under all counts of the indictment.

This charge was requested upon the theory that there was no evidence to show a violation with respect to Eva Parks, and that failure of proof that both the women referred to in the indictment had been transported, or caused to be transported, as alleged, would be fatal. As heretofore shown, there was such evidence in the use by the Clark woman of the railroad ticket furnished by defendant. Besides, the offense was complete if the evidence showed that one of the women was so transported or caused to be transported. (See opinion of the Circuit Court of Appeals, R., 91.)

6. Exception is taken to that part of the charge to the jury in which the court, after instructing them that, if they found from the evidence that Opal Clark was an accomplice, it would not be safe to convict upon her uncorroborated testimony, added:

There is evidence tending to corroborate her testimony and it is for you to consider its force and value and the weight to give it.

The court merely stated what was a fact. The evidence tending to corroborate Clark's testimony was the letters from defendant to the Clark woman in Chicago, which were put in evidence, as well as the matter of the railroad tickets:

The judgment in each of these cases should be affirmed.

WILLIAM R. HARR,
Assistant Attorney General.

## (23, 108)

# SUPREME COURT OF THE UNITED STATES. OCTOBER TERM, 1912.

No. 588.

LOUIS ATHANASAW AND MITCHELL SAMPSON, PLAINTIFFS IN ERROR,

28.

## THE UNITED STATES.

N ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

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1 In the District Court of the United States in and for the Southern District of Florida.

#### THE UNITED STATES

vs.
Louis Athanasaw and Mitchell Sampson.

Be It Remembered That at a term of the Circuit Court of the United States for the Southern District of Florida, at a term of said Court held in the City of Jacksonville Florida on the 16th day of December, A. D., 1911, in open court came the Grand Jurors and presented an indictment against the defendants, which said indictment is in words and figures following, to-wit:

United States of America, Southern District of Florida, ss:

In the Circuit Court of the United States in and for the Southern District of Florida, at the December Term Thereof, A. D. 1911.

The Grand Jurors of the United States, impaneled, sworn and charged at the Term aforesaid, of the Court aforesaid, on their oath present, that one Louis Athanasaw and one Mitchell Sampson on the 8th day of September, A. D., 1911, within the jurisdiction of said court, did knowingly cause to be transported in interstate commerce, to-wit: from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, a certain female person, to-wit: one Agnes Couch for the purpose of debauchery; contrary to the form of the statute in such case made and provided and against the peace and dignity of the said United States.

2. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D., 1911, within the jurisdiction of said Court, did knowingly aid in obtaining transportation, in interstate commerce, to-wit: from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, for a certain female person, to-wit—one Agnes Couch for the purpose of debauchery; contrary to the form of the statute in such case made and provided and against the peace and dignity of the said United States.

3. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson, on the 8th day of September, A. D. 1911, within the jurisdiction of said Court, did knowingly assist in obtaining transportation in interstate commerce, to-wit: from Atlanta in the State of Georgia, to Tampa, within the State of Florida and within the Southern District of Florida, for a certain female person, to-wit: one Agnes Couch, for the purpose of debauchery; contrary to the form

of the statute in such case made and provided and against the peace

and diginity of the said United States.

4. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson, on the 8th day of September, A. D., 1911, within the jurisdiction of said court, did knowingly cause to be transported, in interstate commerce, to-wit: Irom Atlanta, in the State of Geor-

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5. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson, on the 8th day of September, A. D., 1911, within the jurisdiction of said court, did knowingly aid in obtaining transportation in interstate commerce, to-wit: from Atlanta, in the State of Georgia, to Tampa, within the State of Florida and within the Southern District of Florida, for a certain female person, to-wit: one Agnes Couch with intent and purpose of him, the said Louis Athanasaw, and of him, the said Mitchell Sampson, to induce such female person to give herself up to debauchery; contrary to the form of the statute in such case made and provided and against the peace and dignity of the said United States.

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8. And the Grand Jurors aforesaid; on their oath aforesaid, do

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10. And the Grand Jurors aforesaid, on their oath aforesaid, do further present that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September, A. D. 1911 within the jurisdiction of said court, did knowingly cause to be transported, in interstate commerce, to-wit: from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, a certain female person, to-wit: one Agnes Couch with the intent and purpose of him, the said Louis Athanasaw and of him, the said Mitchell Sampson to compel such female person to give herself up to debauchery; contrary to the form of the statute in such case made and provided and against the peace and dignity of the said United States.

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United States.

14. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September, A. D., 1911, within the jurisdiction of said court, did knowingly obtain a ticket to be used by a certain girl, towit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida, and within the Southern District of Florida, for the purpose of debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

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25. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell

Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly aid in procuring a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, for the purpose of debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

26. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly assist in procuring a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, for the purpose of debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

27. And the Grand Jurors aforesaid, on their oath aforesaid, do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September Λ. D. 1911 within the jurisdiction of said court, did knowingly aid in obtaining a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate com-

merce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, for the purpose of debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

28. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the juris-

diction of said court, did knowingly assist in obtaining a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, for the purpose of debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

29. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly procure a ticket to be used by a certain girl to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis Athanasaw and of him, the said Mitchell Sampson to induce her,

the said Agnes Couch, to give herself up to debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity

of the said United States.

30. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September, A. D. 1911 within the jurisdiction of said court, did knowingly obtain a ticket to be used by a certain girl to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis Athanasaw and of him, the said Mitchell Sampson to induce her, the said Agnes Couch to give herself up to debauchery, and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid, in the State of Florida, contrary to the form of the stateute in such case made and provided, and against the peace and dignity of the said United States.

31. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson, on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly cause to be procured a ticket to be used by a certain girl to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis

Athanasaw and of him, the said Mitchell Sampson to induce her, the said Agnes Couch to give herself up to debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and

dignity of the said United States.

32. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly cause to be obtained a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis Athanasaw, and of him, the said Mitchell Sampson, to induce her, the said Agnes Couch to give herself up to debauchery, and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

33. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly aid in procuring a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis

Athanasaw and of him the said Mitchell Sampson to induce her the said Agnes Couch to give herself up to debauchery, and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said

United States.

34. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September, A. D. 1911, within the jurisdiction of said court, did knowingly assist in procuring a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Flarido and within the Southern District of Florida, with the intent on the part of him, the said Louis Athanasaw and of him, the — Mitchell Sampson to induce her, the said Agnes Couch to give herself up to debauchery, and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

35. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell

Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly aid in obtaining a ticket to be used by a certain girl to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to — within the State of Florida and within the Southern District of Florida, with the intent on the part of him the said Louis Athanasaw, and of him the said Mitchell Sampson, to induce her.

the said Agnes Couch to give herself up to debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity

of the said United States.

36. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly assist in obtaining a ticket to be used by a certain girl to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis Athanasaw and of him, the said Mitchell Sampson, to induce her, the said Agnes Couch to give herself up to debauchery, and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

37. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly procure a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District

of Florida, with the intent on the part of him, the said Louis
Athanasaw and of him, the said Mitchell Sampson to entice
her, the said Agnes Couch to give herself up to debauchery
on, and whereby the said Agnes Couch was transported by train in

interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity

of the said United States.

38. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly obtain a ticket to be used by a certain woman to-wit, one Agnes Couch in interstate commerce; that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the Southern District of Florida, with the intent on the part of him, the said Louis Athan-

asaw and of him, the said Mitchell Sampson to entice her, the said Agnes Couch to give herself up to debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the said United States.

39. And the Grand Jurors aforesaid, on their oath aforesaid do further present, that the said Louis Athanasaw and the said Mitchell Sampson on the 8th day of September A. D. 1911 within the jurisdiction of said court, did knowingly cause to be procured a ticket to be used by a certain girl to-wit, one Agnes Couch in interstate commerce. that is to say, in going from Atlanta in the State of Georgia to Tampa within the State of Florida and within the South-

19 ern District of Florida, with the purpose on the part of him, the said Louis Athanasaw and of him, the said Mitchell Sampson to entice her, the said Agnes Couch to give herself up to debauchery and whereby the said Agnes Couch was transported by train in interstate commerce from Atlanta in the State of Georgia to Tampa aforesaid in the State of Florida, contrary to the statute in such case made and provided, and against the peace and dignity of the said United States.

(Signed)

RICHARD P. MARKS, Ass't U. S. Attorney.

And which said indictment is endorsed on the back thereof as follows: "No. 35. Circuit Court of the United States for the — Division of the Southern District of Fla. The United States vs. Louis Athanasaw and Mitchell Sampson. Indictment White Slave Act. A True Bill. Jos. L. Guernsey, Foreman. Filed Dec. 16, A. D., 1911. E. O. Locke, Clerk."

And afterwards, on the 20th day of February, A. D., 1912. at a term of the United States District Court for the Southern District of Florida, in open court, came the defendants in person, and by their attorneys, and came also the District Attorney of the United States.

And thereupon the defendants having been duly arrai-ned, filed the following demurrer to the indictment in said cause, and each count thereof, in words and figures following:

In the District Court of the United States for the Southern District of Florida.

#### (Transferred from the Circuit Court.)

Now come the defendants, and each of them, and say that the indictment, and each count thereof, is bad in substance and in law, and demur to each count severally.

W. A. CARTER, JOHN P. WALL, Attorneys for Defendants. 20 And for substantial matters of law to be argued to the court as to each count in said indictment contained the defendants state the following:

A. The Act of Congress under which the said indictment is found

is unconstitutional and void:

First, for the reason that there is no grant of power by the Constitution to Congress to legislate upon the subject.

Second, because the said act of Congress in no way directly affects

any subject matter over which Congress has jurisdiction.

Third, because the act sought to be punished by the act of Congress is one wholly within the police power of the several states.

B. Said indictment fails to state the persons sought to be de-

bauched.

C. The said indictment fails to allege that the purpose of debauchery existed in the minds of the defendants.

D. The said indictment fails to allege that the purpose of debauchery existed in the minds of the defendants at any time prior

to or during the transportation of the woman.

E. Said indictment is bad for the reason that there is no allegation that the woman was actually transported in interstate commerce.

W. A. CARTER, JOHN P. WALL, Attorneys for Defendants.

I, W. A. Carter, of counsel for defendants, hereby certify in my opinion the foregoing demurrer is well founded in law.

W. A. CARTER, Of Counsel for Defendants.

STATE OF FLORIDA, County of Hillsborough, ss:

Personally appeared before the undersigned authority Louis Athanasaw and Mitchell Sampson, who being duly sworn say they are the defendants above named, and that the foregoing demurrer is not interposed for delay.

LOUIS ATHANASAW. MITCHELL SAMPSON.

Sworn to and subscribed before me on this 12 day of January, A. D. 1912.

[NOTARIAL SEAL.] GEORGE P. RANEY, JR.,

Notary Public.

And the court having duly considered the case, did then and there

overrule said demurrer.

And thereupon the defendants in person in open court entered their plea of not guilty.

And thereupon came a jury, who were duly sworn to try the issues aforesaid between the parties aforesaid, and the said jury having heard the testimony in said cause, the argument of counsel, and the

charge of the court, retired to their rooms; and thereupon, on the 21st day of February, A. D., 1912, returned into open court, and the defendants being then present, delivered their verdict in words and figures following:

TAMPA, FLORIDA, February 21st, 1912.

We, the jury, find the defendants guilty. So say we all as charged in the Indictment.

TAYLOR FRIERSON, Foreman.

And thereupon the said Louis Athanasaw was called to the bar of said court and asked if he had anything to say why the sentence of the law should not be passed upon him; and after hearing his statement the said court did pronounce judgment in words and figures following, to-wit:

"Ordered that you, Louis Athanasaw, who have been convicted of a violation of the White Slave Act be imprisoned by confinement at hard labor in the Penitentiary of the United States at Atlanta,

Georgia, for two years and six months."

And thereupon the said Mitchell Sampson being called to the bar of the court, and asked whether he had anything to say why the sentence of the law should not be pronounced upon him, the court thereupon imposed the following sentence:

"It is ordered that you, Mitchell Sampson, having been convicted of a violation of the White Slave Act be imprisoned by confinement at hard labor in the Penitentiary of the United States at Atlanta,

Georgia, for a period of one year and three months."

And thereupon, on the 24th day of February, A. D., 1912. came the defendants in person in open court, and by their counsel, filed their motion in arrest of judgment, in words and figures following:

In the District Court of the United States for the Southern District of Florida.

# THE UNITED STATES OF AMERICA LOUIS ATHANASAW and MITCHELL SAMPSON.

Now come the defendants in the above entitled cause, in open court, and move the court for arrest of judgment upon the following grounds, to-wit:

1. The act of Congress under which the indictment in this case

is found is unconstitutional.

2. The act of Congress under which the indictment is found is not within the powers delegated to Congress by the Constitution of the United States.

3. Because each count of the indictment is bad in that it does not allege that the intent to debauch the said Agnes Couch, or to cause her to be debauched, or to compel, incite, or coerce her to give her23

self up to debauchery is alleged in said indictment to have existed in the minds of either of the defendants at the time of the inception, or during the transportation of the said Agnes Couch.

W. A. CARTER, WALL & McKAY, Attorneys for Defendant.

Which said motion being then and there considered by the court, the court did then and there deny said motion on said 24th day of February, A. D., 1912.

And afterwards, to-wit, on the 24th day of February, A. D., 1912, in open court, came the said defendants by their counsel, and filed the following petition for writ of error:

In the District Court of the United States for the Southern District of Florida.

THE UNITED STATES OF AMERICA

V.
Louis Athanasaw and Mitchell Sampson.

Now come the defendants in the above entitled cause, and show unto the court that they were on the 24 day of Feb'y A. D., 1912, at a term of said court convicted and sentenced under an Act of Congress approved June 25, 1910, being Chapter 395, and commonly called the "White Slave Act." That in said cause the constitutionality under the Constitution of the United States of said Act of Congress, and the construction thereof, were drawn in question, wherefore they pray this Court for an order allowing the said defendants to prosecute a writ of error to the Honorable Supreme Court of the United States under and according to the laws of the United States in that behalf made and provided; and that also that citation issue, as directed by law, and that this Court will make an order fixing the amount of security which the said defendants shall give and furnish upon said writ of error, and that upon the giving of such security all further proceedings in this court be suspended and staid until the determination of said writ of error by the United States Supreme Court; and also that this Court will grant to the defendants a period of sixty days from the adjournment of this court within which to make up and tender a bill of exceptions; and your petitioners will ever pray.

W. A. CARTER, WALL & McKAY, Attorneys for Defendants.

And at the same time came the said defendants in open court, and filed their assignments of error, in words and figures following:

#### In the District Court of the United States for the Southern District of Florida.

# THE UNITED STATES OF AMERICA

### Louis Athanasaw and Mitchell Sampson.

Now come the defendants in the above entitled cause and at the time of filing their petition for a writ of error to the Supreme Court of the United States, and assign the following errors, to-wit:

1. The Court erred in overruling the demurrer of the defendants

to the indictment, and to each count thereof.

2. The Court erred in holding that the Act under which the defendants were prosecuted, being an Act of Congress commonly called the "White Slave Act" was constitutional.

3. The Court erred in denying the defendants' motion for a new

trial.

4. The Court erred in denying the defendants' motion in arrest of judgment.

5. The Court erred in refusing to charge the jury as requested by

the defendants, as follows, to-wit:

"The Court instructs the jury that before they can find the defendants or either of them guilty under the indictment in this cause it must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida; and that at the time of the procuring or aiding in the procuring of said transportation the defendants, or one of them, had the intent at that time either themselves to debauch the said Agnes Couch, or to procure her debauchment by some other person, or that they intended to induce, entice, or compel the said Agnes Couch to give herself up to debauchery."

6. The Court erred in refusing to charge the jury as requested

by the defendants, as follows, to-wit:

"The Court further instructs you that the word "Debauch,"
as used in the Act of Congress under which the defendants
are indicted, and in the indictment in this case, means sexual
intercourse between a man and a woman."

7. The Court erred in refusing to charge the jury as requested

by the defendants, as follows, to-wit:

"If the jury have a reasonable doubt from all the evidence in this cause that the defendants did not intend at the time of the procuring of the transportation to either themselves debauch the said Agnes Couch, or procure her debauchment by some other person, or to induce, entice, or compel the said Agnes Couch to give herself up to debauchery, then the jury must acquit the defendants."

8. The Court erred in charging the jury as follows, to-wit:

"The Court instructs you that before you can find the defendants or either of them guilty under the indictment in this case, you must be satisfied beyond a reasonable doubt from the evidence that the

defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and at the time of the procuring or aiding in the procuring of said transportation the defendants both or one of them, had the intent at the time to employ said Agnes Couch in a position and put her under conditions which would induce or incite her to be lead into a condition of debauchery that would tend to immoral sexual intercourse."

9. The Court erred in charging the jury as follows, to-wit:

"Now, Gentlemen, the Congress of the United States has provided that any person who shall transport or cause to be transported or aid or assist to obtain transportation in interstate commerce (which means from one state to another) of any woman or girl for the purpose of debauchery, shall be guilty of a felony, and upon conviction shall be punished in accordance with law. Unquestionably this Act, although it originated for the purpose of protecting these poor un-

fortunate women, who, by accident or otherwise had placed
themselves under the control of unscrupulous persons, yet the
language of the law is direct and positive in its terms and
meaning, and should be construed to do everything that the United
States Congress has a legal right to do and has used language with
the intention to prevent and break up vice and immorality."

10. The Court erred in charging the jury as follows:

"It has been proven and admitted that Agnes Couch came to Tampa at the procurement of the defendants who furnished her transportation by furnishing tickets for that purpose. The only remaining question is whether Agnes Couch was brought here for the purpose of debauchery; that is the vital point in this case; and in determining it you will examine carefully all of the testimony in connection with the procuring of her coming. It is to a certain extent a case of circumstantial evidence; not positive and direct, but circumstantial, to be determined by all of the circumstances surrounding it. And you will examine in determining this question the position into which she was brought, the condition in which she found herself when she came, and the necessary result of such conditions; and determine from all of the testimony what was the purpose of bringing her here, whether or not it was to entice or induce her to give herself up to a life of debauchery."

11. The Court erred in charging the jury as follows, to-wit:

"The intent and purpose of the defendants at the time of the furnishing of this transportation for Agnes Couch is the very gist and question in this case. Did they intend to induce or entice of influence her to give herself up to debauchery? It makes no difference whether the profits which would be made by the defendants came from the sale of liquor or other immoral purpose. The question here is of intent; what was the intent with which they brought her; that she should live an honest, moral and proper life? or that she came and they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery or tends to or would necessarily and naturally lead her to a condition of debauchery just refer-ed to."

12. The Court erred in charging the jury as follows: 27 "The term debauchery is not a legal or technical term. There is no allegation that the defendants brought her here with the purpose or with the intent to debauch her; but to induce her or entice her, or influence her to enter upon a course of debauchery. The term debauchery is not a legal or technical term. To debauch is to corrupt in morals or principles; to lead astray morally into dishonest and vicious practices; to corrupt; to lead into unchastity; Debauchery then, is an excessive indulgence of the to debauch. body; licentiousness, drunkenness, corruption of innocence, taking up vicious habits. The term debauchery, as used in this Statute, has an idea of sexual immorality; that is, it has the idea of a life which will lead eventually or tends to lead to sexual immorality; not necessarily drunkenness or immorality, but here it leads to the question in this case as to whether or not the influences in which this girl was surrounded by the employment which they called her to did or did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily and naturally would lead to a course of immorality sexually. That is the question for you to determine, and it is a question that you alone can determine. You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was employed. You have examined by the testimony and your observation what was the character and what was the condition or influence in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman."

13. The Court erred in charging the jury as follows, to-wit:

"Now, it is contended that they must have had a deliberate intent to debauch her when she came here; that either one or the other intended to debauch her or to get somebody else to debauch Now, that term debauch is used in a great many instances

in law, and the usual connection is to have carnal inter-course with; but there is no such language in this Statute, 28 nor is it the language of the indictment. The Charge of the indictment in substance is that they induced or influenced her

to enter into a life or condition of debauchery-"to induce or compel her to give herself up to debauchery."

W. A. CARTER, WALL & McKAY, Attorneys for the Defendants.

And thereupon the said court did then and there make an order in words and figures following, to-wit:

In the District Court of the United States for the Southern District of Florida.

# THE UNITED STATES OF AMERICA V. LOUIS ATHANASAW and MITCHELL SAMPSON.

At a stated term of faid Court, to-wit, the February Term, A. D., 1912, of the said District Court for the Southern District of Florida, held in the City of Tampa, Florida, on the 24th day of February A. D., 1912.

Present the Hon. James W. Locke, District Judge.

Upon the motion of W. A. Carter and Wall & McKay, attorneys for defendants; and upon filing a petition for writ of error and

assignments of errors, it is,

Ordered that a writ of error be, and hereby is allowed to have reviewed in the Supreme Court of the United States, the judgment heretofore rendered; and that the amount of a supercedeas bond is fixed at the sum of Five Thousand dollars for each of said defendants; and that citation issue, as required by law; and that the said defendants be allowed a period of sixty days within which to

make up and tender a bill of exceptions.

Done and ordered in open court this 24 day of Feb'y A. D.,

1912.

JAMES W. LOCKE, District Judge.

And at the same time the said judge did make the following certificate:

In the District Court of the United States for the Southern District of Florida.

# THE UNITED STATES OF AMERICA v. LOUIS ATHANASAW and MITCHELL SAMPSON.

In this cause, I, James W. Locke, District Judge, Do Hereby Certify that in the cause aforementioned there was directly involved the constitutionality and construction of an Act of Congress, to-wit, Chapter 395, being an act approved June 25, 1910, commonly called the "White Slave Act."

Feb'y 24, 1912.

JAMES W. LOCKE, District Judge.

And thereupon, upon the said 24th day of February, A. D., 1912, a writ of error in said cause, in words and figures following was duly issued:

THE UNITED STATES OF AMERICA:

The President of the United States of America to the Judge of the District Court of the United States for the Southern District of Florida, Greeting:

Because in the records and proceedings, and also in the rendition of a judgment of a plea which is in said District Court before you between the United States of America, plaintiff, and Louis Athansaw and Mitchell Sampson, defendants, manifest error hath hap-

pened to the great damage of the said Louis Athanasaw and Mitchell Sampson, as by their complaint appears; we being willing that error, if any has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same at the City of Washington, on the 25th day of March next, in the Supreme Court to be then and there held, that the record and proceedings held aforesaid being then inspected the said Supreme Court may cause further to be done to correct that error, what of right, according to the laws and customs of the United States, should be done.

Witness the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States, on the 24 day of February

A. D., 1912.

[Seal of District Court of United States, Southern District of Fla.]

E. O. LOCKE,

Clerk of the District Court of the United States
for the Southern District of Florida,
By W. R. WATKINS,

Deputy Clerk.

Allowed by

JAMES W. LOCKE,

District Judge of the Southern

District of Florida.

Which said writ of error was duly filed in the District Court of the United States for the Southern District of Florida on the 24th day of February, A. D., 1912.

And at the same time the said judge did issue a citation in words and figures following, to-wit:

THE UNITED STATES OF AMERICA:

The President of the United States to the United States of
America and John M. Cheney, District Attorney of the
United States for the Southern District of Florida, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held in the City of Washington within thirty days from the date of this writ, pursuant to a Writ of Error filed in the Clerk's office of the District Court for the Southern District of Florida, wherein Louis Athanasaw and Mitchell Sampson are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States of America, this 24" day of

Feb'v A. D., 1912.

[Seal of the District Court of the United States for the Southern District of Florida.]

JAMES W. LOCKE,
District Judge of the United States for
the Southern District of Florida.

Attest:

E. O. LOCKE, Clerk.

By W. R. WATKINS,

Deputy Clerk of the District Court for the Southern District of Florida.

Which said citation was duly filed on the 24th day of February, A. D., 1912.

On the same date, the Honorable J. M. Cheney, United States District Attorney for the Southern District of Florida, endorsed on said citation the following: "Service accepted, and further notice and service waived. This February 24th, 1912. J. M. Cheney, United States District Attorney for Southern District of Florida.

And thereupon the said defendants did each respectively enter into a supercedeas bond, which was duly approved by the court, in

words and figures following:

32 In the District Court of the United States for the Southern District of Florida.

THE UNITED STATES OF AMERICA
v.
LOUIS ATHANASAW and MITCHELL SAMPSON.

We, Mitchell Sampson, and J. A. Griffin, and S. V. M. Ybor, jointly and severally acknowledge ourselves indebted to the United

States of America in the sum of Five thousand dollars, lawful money of the United States of America, to be levied on our and each of our goods and chattels, land and tenements upon this condition:

Whereas the said Mitchell Sampson has sued out a writ of error from the judgment of the District Court of the United States for the Southern District of Florida in the case in said court wherein the United States of America are plaintiff and the said Louis Athanasaw and Mitchell Sampson are defendants, for a review of the

said Judgment in the Supreme Court of the United States,

Now then if the said Mitchell Sampson shall appear and surrender himself in the District Court of the United States for the Southern District of Florida on and after the filing in said District Court of the mandate of the said Supreme Court of the United States, and from time to time thereafter as he may be required to answer any further proceedings, and abide by and perform any judgment or order which may be had or entered therein in this case, and shall abide by and perform any judgment or order which may be rendered in the Supreme Court of the United States, and not depart from the said District Court without leave thereof, then this obligation shall be void, otherwise to remain in full force and virtue.

Witness our hands and seals, this 24th day of Feb'y A. D., 1912.

MITCHELL SAMPSON. [SEAL.]
J. A. GRIFFIN. [SEAL.]
S. V. M. YBOR. [SEAL.]

33 Approved as to form and sufficiency.

JAMES W. LOCKE, Judge.

Febfuary 24, 1912.

Before me personally came J. A. Griffin, and S. V. M. Ybor, who each being sworn for himself says he is worth the sum of Five Thousand Dollars \$5000.00 over and above all debts and homestead exemptions.

J. A. GRIFFIN. S. V. M. YBOR.

Sworn to and subscribed before me, this 24th day of February, A. D. 1912.

[Seal of District Court of the United States for Southern District of Florida.]

E. O. LOCKE, Clerk, By W. R. WATKINS, Deputy Clerk. In the District Court of the United States for the Southern District of Florida.

#### THE UNITED STATES OF AMERICA

V.

LOUIS ATHANASAW and MITCHELL SAMPSON,

We, Louis Athanasaw, and J. A. Griffin and S. V. M. Ybor, jointly and severally acknowledge ourselves indebted to the United States of America in the sum of Five thousand dollars, lawful money of the United States of America, to be levied on our and each of our goods and chattels, lands and tenements upon this condition:

Whereas the said Louis Athanasaw has sued out a writ of error from the judgment of the District Court of the United States for the Southern District of Florida in the case in said court wherein the United States of America are plaintiff and the said Louis Athanasaw and Mitchell Sampson are defendants, for a review of the

34 said Judgment in the Supreme Court of the United States,

Now then if the said Louis Athanasaw shall appear and surrender himself in the District Court of the United States for the Southern District of Florida on and after the filing in said District Court of the mandate of the said Supreme Court of the United States, and from time to time thereafter as he may be required to answer any further proceedings, and abide by and perform any judgment or order which may be had or entered therein in this case, and shall abide by and perform any judgment or order which may be rendered in the Supreme Court of the United States, and not depart from the said District Court without leave thereof, then this obligation shall be void, otherwise to remain in full force and virtue:

Witness our hands and seals, this 24th day of Feb'y A. D., 1912.

L. ATHANASAW. [SEAL.]
J. A. GRIFFIN. [SEAL.]
S. V. M. YBOR. [SEAL.]

Approved as to form and sufficiency.

JAMES W. LOCKE, Judge.

February 24th, 1912.

Before me personally came J. A. Griffin and S. V. M. Ybor, who each being sworn for himself says he is worth the sum of five thousand dollars \$5000.00 over and above all debts and homestead exemptions.

J. A. GRIFFIN. SALVADOR V. MARTINEZ YBOR.

Sworn to and subscribed before me this 24th day of February, A. D., 1912.

[Seal of Clerk of District Court of Southern District of Florida.]

E. O. LOCKE, Clerk, By W. R. WATKINS,

Deputy Clerk.

35 In the District Court of the United States for the Southern District of Florida.

Be it remembered that at a Term of the District Court of the United States, for the Southern District of Florida, held at Tampa, in said District, on the 21 day of February, A. D., 1912, the Cause therein pending wherein the United States was plaintiff and Louis Athanasow and Mitchell Sampson are defendants, came on to be heard before the Honorable James W. Locke, Judge of said Court, at which date came the said defendants in person, and the attorneys for the respective parties; and

Thereupon the issues in manner aforesaid joined between the said parties came on to be tried before a jury duly sworn to try said

issues in manner aforesaid joined; and

Thereupon, the following proceedings were had:

The Government, to maintain its case produced and swore as a witness one Agnes Couch, who testified in substance as follows, towit:

I am seventeen (17) years of age, and live at Suwanee, Georgia. In September, 1911, I was in Atlanta, Georgia, and seeing an advertisement of one Sam Massell wanting ten (10) chorus girls I answered the advertisement, and saw said Massell in his office in Atlanta, Georgia, and in the office of the said Sam Massell I signed the contract hereto attached, marked Exhibit 1 and was shown the letterhead attached thereto. After I signed the contract Massell gave me a ticket from Atlanta, Georgia, over the Southern and Seaboard railways to Tampa, Florida, and I came with my trunk from At-

lanta, Georgia, to Tampa, Florida, over the railways above mentioned. I arrived in Tampa, Florida, on the seventh of September, 1911, at about six-thirty o'clock, and I went to the Imperial Theater and there met Mr. Louis Athanasow, one of the defendants, at seven o'clock. He showed me my room, and took the check to get my trunk. I went to sleep and slept until two o'clock in the afternoon. At that hour one of the girls awoke me up to rehearse. I went down in the Theater and staved there about an hour rehearsing, singing; and then went to lunch in the dining All of the girls were there, and several boys. I had never had any stage experience. At lunch they were all smoking, cursing and using such language I couldn't eat. After lunch I went to my room, and about six o'clock Louis Athanasow, one of the defendants, came and said to me I would like it all right; that I was good looking and would make a hit, and not to let any of the boys fool me. and not be any of the boys' girl; to be his. He wanted me to be his girl; to talk to the boys and make a hit, and get all of the money I could out of them. His room was next to mine, and he told me he was coming in my room that night and sleep with me; and he kissed and caressed me. He told me to dress for the show that night and come down into the boxes. I went into the box about nine About that time Louis Athanasow's son knocked on my

door and told me to come to the boxes. In the box where I went there were four boys; they were smoking, cursing and drinking. I sat down and the boys asked me what was the matter, I looked scared. I told them I was ashamed of being in a place like that; and Arthur Schlemann, one of the boys, said he would take me out. The others insisted on my staying, and said I would like it when I got broke in. I tried to go out with Schlemann, but a boy named Gilbert pulled me back, saying "let that cheap guy alone." Schle-

mann said he would send a policement, and in about fifteen minutes Mr. Thompson and Mr. Evans came in for me. Mr. Louis Athanasow asked what the trouble was; why I would not stay until morning when he would send me away if I spent the night; he said I could not go that night; and he said I could not have my trunk, he had held it for transportation. I went away with Mr. Thompson and Mr. Evans. The boxes in that Theater were looking over the stage; with a little opening looking onto the stage. There was a door in the back of it that could be closed and bolted. They were on the second floor. There were some chairs and a table in it.

She further stated that the day she signed the contract with Massell, was the first time she had ever seen him.

She further stated that on the preliminary examination of her cause she testified that Louis Athanasow caressed, and hugged and

kissed her; but that she did not then state that he proposed to sleep with her or make her his girl.

She did not know any of the boys in the box: that while in there

She did not know any of the boys in the box; that while in there they forced her to drink a bottle of beer, and insisted on her smoking.

She further stated that she had never drank beer before.

The Government also introduced as a witness one ARTHUR

SCHLEMANN, JR., who testified in substance:

That he knew Louis Athanasow and Mitchell Sampson; that he knew they ran the Imperial Theater; that he saw Agnes Couch at the Theater in the boxes one Saturday night, between ten and eleven o'clock; that Louis Athanasow's son brought her to the box. That he had gone to see the show. That Louis Athanasow was behind the bar downstairs. In the box they got a couple of beers. That

Agnes Couch came in and I asked her, do you drink beer, and she said, yes, I drink beer at home; I asked her if she would have a bottle, and she said she thought so. The beer was brought. The girl, Agnes Couch, sat there awhile, and in talking to her I thought she was a decent girl. The boys were touching her and fooling with her. I thought she was decent because it took her so long to drink the beer. I took her out of the box and spoke to her. She said she wanted to get out. I went out to the street and told Mr. Evans and Mr. Thompson there was a girl up there wanted to get out. They said they wanted to go to a train. I then went and tried to take Agnes Couch out. At the foot of the steps we met a Mr. Gilbert, and about twenty (20) men; I think they were fishermen; and Mr. Gilbert asked me what right I had; and I said none of your

business, and he said he would make it his business. And then the fishermen came around taking their coats off to fight me, and Gilbert takes the girl upstairs; and then Mr. Evans and Mr. Thompson got her out. She said she was afraid to ask Mr. Athanasow to let her go; and I was afraid to ask him myself.

And then the Government introduced and caused to be sworn,

L. W. Evans, who testified in substance as follows:-

I am a constable. I saw this girl, Agnes Couch, in Louis Athanasow's Theater. We went up there to see her because Schlemann reported there was a girl therewhoappeared to be a nice girl and wanted to leave, and that the management would not allow her to leave. When we got up there I found the girl crying. She was in one of the Theater boxes. We asked her what was the matter and she said she wanted to leave; that it was not the kind of place she thought she was coming to; that she had been booked in Atlanta to

come to Tampa as a chorus girl, and after she got here it was not what she thought it was; she wanted to leave; that she was not used to anything of that kind. While we were talking Mr. Athanasow came up and said to the girl that he did not know she wanted to leave; that if she had told him he would have seen about it. She wanted to get her trunk, and Mr. Athanasow asked us what he was going to do about his transportation; and he said he was going to hold the trunk. We then took the girl out and left the trunk. The boxes in this theater up stairs are partitioned off, and have a window in each one of them. They are small rooms with a window in each one of them, looking on the stage. There is a hall all around on the outside. There is a door in the back of the boxes leading to the hall.

And thereupon the Government introduced and caused to be sworn as a witness, A. S. Thompson, who testified in substance as follows:

A complaint came to me by Arthur Schlemann about a girl at Athanasow's place, and I went there and talked with her. She said she had come to work, was dissatisfied with the place and wanted to leave; that she had started to go and they would not let her. I took her in a buggy and carried her to Mrs. Davis'. Mr. Athanasow came while I was talking to the girl and said, leave her until morning and I will send her home. I told him, no, I was going to take her then; and he said, what about her transportation, she owes me for that. I told Him I did not know; that we were going to take the girl, and we took her and left the trunk.

And thereupon the Government introduced and caused to be sworn as a witness one Sam Massell who testified in substance as follows:—

I live in Atlanta, Georgia, and lived there in September, 1911. I had some correspondence with Louis Athanasow and Mitchell Sampson, the defendants, with reference to actresses for their theater, which letters and telegrams are hereto attached, marked Exhibits 2, 3, 4, & 5. The contract attached to Agnes Couch's testimony was

signed in my office. I furnished this girl with the ticket on which she came to Tampa. My business was a theatrical booking agency. I worked for in the neighborhood of fifty theaters throughout the United States. My contract with Athanasow & Sampson was similar to those I had with other places.

The defense then introduced C. M. DICKENSON, as a witness, who

testified in substance as follows:-

That he was the Traffic Passenger Agent of the Seaboard Air Line Railway in September, 1911; and at the request of Athanasow & Sampson he had arranged for tickets to be furnished for Agnes Couch and other persons from Atlanta, Georgia, to Tampa, Florida; and also furnished other tickets; that he did the same thing for other theaters in Tampa.

The defense then introduced H. L. CRANE, as a witness, who tes-

tified in substance:

That he was the United States Court Commissioner who held the preliminary examination in this case; that Agnes Couch testified at the hearing, and at the said heraing the ordinary oath delivered to a witness was delivered to her. That she did not at that time state that Louis Athanasow either kissed or fondled her in any way;

(Here follows letterhead marked page 41.)





.. ATHANASOW & SAMPSON .. Sixth Avenue and Fifteenth Street

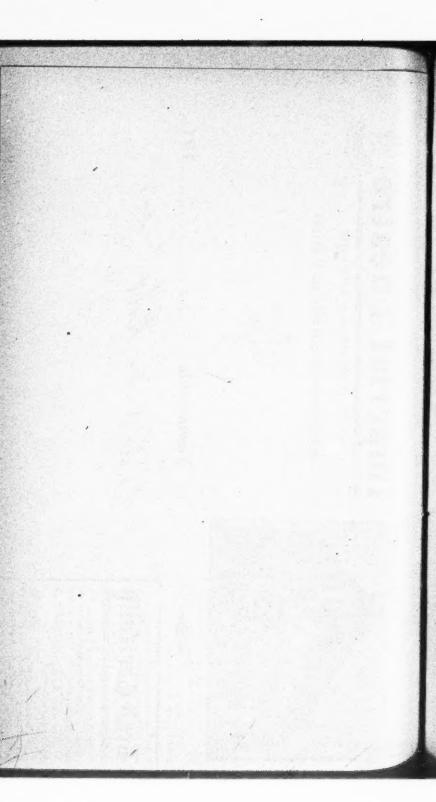




Tampa, Fla.,

# Arad Carefully

Enhibert Nell" to



#### Ex. B.

## Sam Massell Theatrical Booking Agency,

#### Austel Bldg.

ATLANTA, GA., Sept. 6th, 1911.

Miss Agnes Couch you are hereby engaged to furnish your services professionally known as "Chorus Girl" to appear with the "Imperial Musical Comedy Company" at the Imperial Theatre, Tampa, Fla for an indefinite period opeinging not later than Monday, Sept. 11th, You are required to comply with the rules and regulations as set forth on the letter head of the Imperial Theatre which has been read carefully by you. In consideration for your services rendered you are to receive the sum of Twenty Dollars (\$20.00) weekly for the first four weeks and Fifteen Dollars (\$15.00) every weeks thereafter. There is also an amount of 20% allowed you on all drinks sold in the boxes. A sum equal to one half of your first week's salary is to be deducted by the Manager and remitted to Sam Massell who is acting as Booking Representative for both parties.

Messis, ATHANASOW AND SAMPSON, M'g're. SAM MASSELL, Booking Representative. SAM MASSELL.
Miss AGNES COUCH. [SEAL.]

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#### Ехнівіт 2.

## Imperial Theatre.

TAMPA, FLA., Aug. 28th, 1911.

Mr. Sam Massell. 317 Austell Building, Atlanta, Ga.

DEAR SIR: Your letter of July 20th ulto. received but owing to

big business I was unable to answer at once.

I would like to do business with you if you can get me girls under such circumstances. Salary \$20.00 per week for first 4 weeks \$15.00 in stock, and I can change people every 6 or 8 weeks. Percentage on drinks is 20 per cent on dollar, and people must room and board in Theatre.

I also send tickets to girls in your care. Let girls have some costumes and do specialty.

Your commission is always sent you through me.

If you can send me 6 girls please wire me at once and I will send tickets.

Yours truly,

ATHANASOW & SAMPSON.

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#### Ехнівіт 3.

Aug. 31st, 1911.

Messrs. Athanasow and Sampston, Imperial Theatre, Tampa, Fla.

GENTLEMEN: Your favor of the 28th received and contents noted with care. I just sent you a telegram asking you to wire the tickets and that I would have the girls there before Monday, Sept. 11th. If possible, of course, I will ship them all at once, however, I mentioned the date Sept. 11th merely as a limit of time that I would like to have in which to fill.

If the tickets get here at once, I will possibly send a few of the girls down immediately and the balance of them will follow.

I would be glad to send these girls down on the terms set forth in your letter for a period of not less than eight weeks and would also be glad to effect an arrangement with you whereby I could supply you with Six New faces at the expiration of every eight weeks.

I confirm herewith the terms of the contract on which I will sup-

ply them viz:

Salary for the first four weeks \$20.00.

Salary for the second "weeks 15.00 Making 8 weeks. You to furnish costumes and to ad-ance transportation. I trust to be favored with your patronage.

Very truly yours,

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#### Ехнівіт 4.

The Western Union Telegraph Company.

AUGUST 31st, 1911.

Messrs. Athanasow, Sampson Co., Imperial Treatre, Tampa, Fla.:

Wire six tickets now and will fill before September eleventh. answer.

SAM MESSELL.

Collect.

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#### Ехнівіт 5.

SEPT. 7TH, 1911.

Messrs. Athanasow, Sampson Co., Imperial Treatre, Tampa, Fla.

GENTLEMEN: I enclose herewith another contracts with "Miss Agnes Couch" a young girl of good appearance but one of no experience in Chorus Work. She will make a good girl for the Wine Room and she will learn the Chorus work quickly.

The next set of girls which I will send you will be all experienced and I will send only selected ones as I will have plenty of time in

which to supply.

With very best wishes, I am.

Very truly yours,

neither did she state that Louis Athanasow proposed to have sexual intercourse with her or that Louis Athanasow proposed to sleep with her.

In cross examination he testified that the girl answered all questions that were propounded to her, and only answered questions.

The defense then introduced E. M. MACBRYDE, as a witness, who

testified in substance that-

He was a newspaper reporter; that he attended the preliminary hearing in this case, and that he heard Agnes Couch testify: that at said hearing she did not testify that Louis Athanasow either hugged, kissed or fondled her; neither did she testify that Louis Athanasow proposed to have her for his girl or to spend a night with her. That at that hearing Agnes Couch was asked to state all that occurred at the Imperial Theater while she was there.

The defense then introduced as a witness the defendant, Louis

ATHANASOW, who testified in substance:-

That the defendant, Mitchell Sampson, was his brother-in-law, and that he was a married man and lived with his wife; and had children. That he lived some distance from the Imperial Theater. and was living there at the time Agnes Couch came to the Theater. That he had a room at the Theater at the time Agnes Couch came That he had been running this Theater for three years. That it was a regular Theater where they dance, sing, and do tricks. That the actresses who performed lived in the Theater, the women

living on one side, which had no connection with the other: 48 that in the part where the women lived no men lived, and no men were allowed in that part of the building. way Agnes Couch came to come to Tampa, Massell had agreed to book his Theater, and he sent tickets at Massell's request to Atlanta for the actress to come. That on the day that Agnes Couch reached Tampa he was at home, and received a telephone message that a lady wanted to see him; that he went there and the following conversation occurred: She said I want to see the boss; I says I am the boss; she said. I book with this theater from Atlanta for four weeks at twenty dollars a week; I said, what time do you want to go to work; she said, Monday, the eleventh. I asked her if she was going to stay there until Monday, or stay somewhere else; and she said, your contract was for all of the performers to stay in the house, and that she would like to see her room as she had been on the road all night; so, I went upstairs and asked the housekeeper if the room was ready; and she said the corner room was; so, I told Agnes Couch to go in there. From that time I never saw her until Mr. Thompson. the policeman, came for her. I asked Mr. Thompson what was the matter, and he said. I got a complaint to make: I am going to take this lady from here: I told him all right, and he took her away. I never saw her any more. The next morning she sent for her trunk and it was sent to her. I never made any improper proposals to Miss Couch, nor fondled her in any way. I never saw her before the morning I met her at the Theater. The rules for my Theater,

established and enforced, are not to allow men to visit the women in the building. The rules are printed on the letter head attached to the contract signed by Agnes Couch. The women's part of the house was run by a woman, Miss Ray Lewis, she was the house-keeper. I am fifty years old.

49 Then the defendant-introduced as a witness, MITCHELL

Sampson, who testified in substance:—
That he was Louis Athanasow's partner in the Imperial Theater; that he was not in Tampa at the time that Agnes Couch came there nor at the time she left. I went away from Tampa on the ninth to visit a friend of mine, and never saw Agnes Couch. The letters attached to Massell's testimony from us were written by me. I only intended Massell to send actresses here to perform in the theater.

The defendants then introduced as a witness, RAY LEWIS, who in

That she was the housekeeper at the Imperial Theater at the time Agnes Couch was there; that no men were allowed to visit the rooms where the women performing in the theater slept or lived; that the rooms were entirely under her supervision; that she never saw any men in those rooms at all.

And thereupon the testimony was closed.

#### First Exception.

And thereupon, the Court was requested by the defendants to charge as follows:—

The Court instructs the jury that before they can find the defendants or either of them guilty under the indictment in this cause it must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and at the time of the procuring or aiding in the procuring of said transportation the defendants, or one of them, had the intent at that time, either themselves to debauch the said Agnes Couch, or to procure her debauchment by some other person or that they intended to induce, entice, or compel the said Agnes Couch to give herself up to debauchery.

Which the Court did then and there refuse to do, to which ruling

the defendants excepted.

#### Exception No. 2.

And the said defendants further requested the Court to charge as follows:-

The Court further instructs you that the word "debauchery", as used in the act of Congress under which the defendants are indicted, and in the indictment in this case, means sexual intercourse between a man and a woman.

Which the said Court then and there refused to do, to which

ruling the defendants excepted.

#### Exception No. 3.

Defendants then and there requested the court to charge the jury as follows:

If the jury have a reasonable doubt from all the evidence in this cause that the defendants did not intend at the time of the procuring of the transportation to either themselves debauch the said

Agnes Couch, or procure her debauchment by some other person, or to induce, entice, or compel the said Agnes Couch to give herself up to debauchery, then the jury must acquit the defendants.

Which the said Court refused to do, to which ruling the defendants

then and there excepted.

#### Fourth Exception.

The said Court, of its own motion did then and there charge the

jury as follows, to-wit :-

The Court instructs you that before you can find the defendants or either of them guilty under the indictment in this case, you must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and at the time of the procuring or aiding in the procuring of said transportation the defendants both or one of them had the intent at the time to employ said Agnes Couch in a position and put her under conditions which would induce or incite her to be lead into a condition of debauchery that would tend to immoral sexual intercourse.

To the giving of which said charge the defendants then and there

excepted.

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Fifth Exception.

And the said Court of its own motion did charge the jury as follows, to-wit:

Now, gentlemen, the Congress of the United States has provided that any person who shall transport or cause to be transported or aid or assist to obtain transportation in interstate commerce (which means from one state to another) of any woman or girl for the purpose of debauchery, shall be guilty of a felony, and upon conviction shall be punished in accordance with law. Unquestionably this Act, although it originated for the purpose

of protecting these poor unfortunate women, who, by accident or otherwise had placed themselves under the control of unscrupulous persons, yet the language of the law is direct and positive in its terms and meaning, and should be construed to do everything that the United States Congress has a legal right to do and has used language with the intention to prevent and break up vice and immorality.

To the giving of which said charge the defendants then and

there excepted.

#### Sixth Exception.

And the said Court did further charge the jury as follows, towit: -

It has been proven and admitted that Agnes Couch came to Tampa at the procurement of the defendants who furnished her transportation by furnishing tickets for that purpose. The only remaining question is whether Agnes Couch was brought here for the purpose of debauchery; that is the vital point in this case; and in determining it you will examine carefully all of the testimony in connection with the procuring of her coming. It is to a certain extent a case of circumstantial evidence; not positive and direct, but circumstantial, to be determined by all of the circumstances surrounding it; and you will examine in determining this question the position into which she was brought, the condition in which she found herself when she came, and the necessary result of such

conditions; and determine from all of the testimony what was
the purpose of bringing her here, whether or not it was
to entice or induce her to give herself up to a life of debauchery.

To the giving of which said charge the defendants then and there excepted.

Seventh Exception.

And the said Court did further charge the jury of its ow motion as follows:—

The intent and purpose of the defendants at the time of the furnishing of this transportation for Agnes Couch is the very gist and question of this case. Did they intend to induce or entice or influence her to give herself up to debauchery? It makes no difference whether the profits which would be made by the defendants came from the sale of liquor or other immoral purpose. The question here is of intent; what was the intent with which they brought her; that she should live an honest, moral and proper life? Or that she came and they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery, or tends to or would necessarily and naturally lead her to a condition of debauchery just referred to.

To the giving of which charge the defendant- then and there excepted.

Eighth Exception.

And the said Court did then and there, of its own motion, charge the jury as follows:—

The term debauchery is not a legal or technical term. There is no allegation that the defendants brought her here with the 54 purpose or with the intent to debauch her; but to induce her or entice her, or influence her to enter upon a course of debauchery. To debauch is to corrupt in morals or principles; to lead astray morally into dishonest and vicious practices; to corrupt; to lead into unchastity; to debauch. Debauchery then, is an excessive indulgence of the body; licentiousness, drunkenness, corruption of innocence, taking up vicious habits. The term debauchery, as used

in this Statute, has an idea of sexual immorality; that is, it has the idea of a life which will lead eventually or tends to lead to sexual immorality; not necessarily drunkenness or immorality, but here it leads to the question in this case as to whether or not the influences in which this girl was surrounded by the employment which they called her to, did or did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily and naturally would lead to a course of immorality sexually. That is the question for you to determine, and it is a question that you alone can determine. You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was employed. You have examined by the testimony and your observation what was the character and what was the condition or influences in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman.

To the giving of which charge the defendants then and there

excepted.

#### Ninth Exception.

And the said Court did further charge the jury as follows:

Now, it is contended that they must have had a deliberate intent to debauch her when she came here; that either one or the other intended to debauch her or to get somebody else to debauch her. Now, that term debauch is used in a great many instances in law, and the usual connection is to have carnal intercourse with; but there is no such language in this Statute, nor is it the language of the indictment. The charge of the indictment in substance is that they indiced or induced her to enter into a life or condition of debauchery; "to induce or compel her to give herself up to debauchery".

To the giving of which said charge the defendants then and there

excepted.

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And Inasmuch As the several exceptions so taken during the course of said trial did not appear of record, the defendant during the term of Court aforesaid made up and tendered to the Court the foregoing as defendants' bill of exceptions to the aforesaid rulings

of the Court, and requested the Court to sign the same; and

Thereupon, upon due notice to the United States District Attorney, the said bill of exceptions so made up was settled by the Court as herein set forth, and it is hereby certified that the same contains the substance and effect of the evidence adduced at the trial of said cause, and truly represents the proceedings at the said trial, and the exceptions taken by the defendants; and the same is hereby signed and allowed as a bill of exceptions in the said cause, and made a part of the record herein.

Done and Ordered in Open Court, this the 2d day of March,

A. D., 1912.

JAMES W. LOCKE, Judge.

And in the said cause aforesaid the said Judge did charge the jury as follows, to-wit:

GENTLEMEN OF THE JURY: The Court instructs you that before you can find the defendants or either of them guilty under the indictment in this case, you must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and at the time of the procuring or aiding in the procuring of said transportation the defendants both or one of them, had the intent at the time to employ said Agnes Couch in a position and put her under conditions which would induce or incite her to be lead into a condition of debauchery that would tend to immoral sexual intercourse.

Now, Gentlemen, the Congress of the United States has provided that any person who shall transport or cause to be transported or aid or assist to obtain transportation in interstate commerce (which means from one state to another) of any woman or girl for the purpose of debauchery, shall be guilty of a felony, and upon conviction shall be punished in accordance with law. Unquestionably this Act, although it originated for the purpose of protecting these poor unfortunate women, who, by accident or otherwise had placed themselves under the control of unscrupulous persons, yet the language of the law is direct and positive in its terms and meaning, and should be construed to do everything that the United States Congress has a legal right to do and has used language with the intention to prevent and break up vice and immorality.

The indictment in this case, in numerous counts, charges the defendants with having transported or assisted in obtaining transportation for a certain girl, Agnes Couch, from Atlanta, Georgia, to Tampa, Florida, for the purpose of debauchery. The question which will be submitted to you is whether or not the United States has proven such to be the case beyond a reasonable doubt. The tes-

timony is before you and you are the sole judges of the facts
of the case. If you find that the defendant, or defendants,
or either of them, did transport or procure transportation for
one Agnes Couch, from Atlanta, Georgia, to Tampa, Florida, for
the purpose of debauchery, it will be your duty to return a verdict
of guilty. Unless you are satisfied of this beyond a reasonable doubt,
it will be your duty to return a verdict of not guilty.

In determining this question there will be but a few points necessary for you to consider:

It has been proven and admitted that Agnew Couch came to Tampa at the procurement of the defendants who furnished her transportation by furnishing tickets for that purpose. The only remaining question is whether Agnes Couch was brought here for the purpose of debauchery; that is the vital point in this case; and in determining it you will examine carefully all of the testimony in connection with the procuring of her coming. It is to a certain extent a case of circumstantial evidence; not positive and direct, but circumstantial, to be determined by all of the circumstances surrounding it, and you will examine in determining this question the

position into which she was brought, the condition in which she found herself when she came, and the necessary result of such conditions; and determine from all of the testimony what was the purpose of bringing her here, whether or not it was to entice or induce

her to give herself up to a life of debauchery.

The intent and purpose of the defendants at the time of the furnishing of this transportation for Agnes Couch is the very gist and question of this case. Did they intend to induce or entice or influence her to give herself up to debauchery? It makes no difference whether the profits which would be made by the defendants came from the sale of liquor or other immoral purpose. The question here is of intent; what was the intent with which they brought her; that she should have an honest, moral and proper life? or that she came and they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery, or tends to or would necessarily and naturally lead her to a condi-

tion of debauchery just referred to.

The intent and purpose of every sane man is to be presumed from the results of his actions. It is impossible to enter into a man's mind and determine what were his thoughts or his intent, but he is presumed to know the results of the steps he takes. The question then for you to consider is what would be the result of the acts of the defendants in procuring this girl to be brought to this place for the purpose she was brought and placing her in the conditions, according to the testimony in regard to the

conditions in which she was placed.

The term debauchery is not a legal or technical term. There is no allegation that the defendants brought her here with the purpose or with the intent to debauch her; but to induce her or entice her, or influence her to enter upon a course of debauchery. The term debauchery is not a legal or technical term. To debauch is to corrupt in morals or principles; to lead astray morally into dishonest and vicious practises; to corrupt; to lead into unchastity; to debauch. Debauchery then, is an excessive indulgence of the body; licentiousness, drunkenness, corruption of innocence, taking up vicious habits. The term debauchery as used in this Statute, has an idea of sexual immorality: that is, it has the idea of a life which will lead eventually or tends to lead to sexual immorality; not necessarily drunkenness or immorality, but here it leads to the question in this case as to whether or not the influences in which this girl was surrounded by the employment which they called her to, did or did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily and naturally would lead to a course of immorality sexually. That is the question for you to determine, and it is a question that you alone can determine. You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was em-You have examined by the testimony and your observation what was the character and what was the condition or influences in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relatint to sexual intercourse between man and woman.

I am not going to recall to your attention the testimony. It is before you; the conditions under which she was placed. I will leave

it to you, Gentlemen of the Jury.

Now, they knew when they employed her and sent transportation for her just what they employed her for; they knew what they employed her to do. I am not going to refer to what the testimony is; but you know from the facts and circumstances and conditions, (and as I say, it is partially a circumstantial case), the conditions she was placed in by her employment; and that was the purpose for which they brought her here. Was that or not a life of debauchery which would reasonably or naturally lead to a violation of the moral law in regard to sexual intercourse. It is not necessary that they knew personally of her coming, and that before she came they had made up their minds that Agnes Couch was going to be induced or influenced or incited to lead that life, their intent must apply to any party they expected for whom transportation was sent, and for that employment, no matter whom she was.

Now, it is contended that they must have had a deliberate intent to debauch her when she came here; that either one or the other intended to debauch her or to get somebody else to debauch her. Now that term debauch is used in a great many instances in law, and the usual connecction is to have carnal intercourse with; but there is no such language in this Statute, nor is it the language of the indictment. The charge of the indictment in substance is that they induced or influenced her to enter into a life or condition of debauchery,—"to induce or compel her to give herself to debauchery."

Gentlemen, it is unnecessary for me to instruct you further—that is the only point, the only question of law. The locality and the jurisdiction has been proven. The facts and circumstances are clearly and distinctly before you. The question for you to determine is did they of did they not intend and purpose to bring

her here to place her into a position which would necessarily and naturally lead to debauchery of a carnal nature.

Approved as correct.

JAMES W. LOCKE, Judge.

62 In the United States District Court, Southern District of Florida.

I, E. O. Locke, Clerk of the said court, hereby certify that the foregoing pages and part pages of typewriting numbered from one to sixty-one inclusive, is a true copy of the record, bill of exceptions, assignment of errors, and all proceedings in the case of the United States of America v. Louis Athanasaw and Mitchell Sampson, lately adjudicated in said court, as the same remains on file, and of record in my office.

In witness whereof I have hereunto set my hand officially, and

affixed the seal of said court at Tampa, in said district, this 12th day of March A. D., 1912.

[Seal District Court of the United States, Southern District of Florida.]

E. O. LOCKE, Clerk.

THE UNITED STATES OF AMERICA:

The President of the United States of America to the Judge of the District Court of the United States for the Southern District of Florida, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in said District Court before you between the United States of America, plaintiff, and Louis Athanasaw and Mitchell Sampson, defendants, manifest error hath happened to the great damage of the said Louis Athanasaw and Mitchell Sampson, as by their complaint appears; we being willing that error, if any has been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same at the City of Washington, on the 25th day of March next, in the Supreme Court to be then and there held, that the record and proceedings held aforesaid being then inspected the said Supreme Court may cause further to be done to correct that error, what of right, according to the laws and customs of the United States, should be done.

Witness the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States, on the 24 day of February

A. D., 1912.

63

[Seal District Court of the United States, Southern District of Florida.]

E. O. LOCKE,

Clerk of the District Court of the United

States for Southern District of Florida,

By W. R. WATKINS,

Deputy Clerk.

Allowed by

JAMES W. LOCKE, District Judge of the Southern District of Florida.

[Endorsed:] In the District Court of the United States,
Southern District of Florida. The United States of America
v. Louis Athanasaw and Mitchell Sampson. Writ of Error. Filed
this 24th day of Feb'y, A. D. 1912. E. O. Locke, Clerk. W. R.
Watkins, Dep. Clerk.

This Writ of Error is executed by transmitting herewith to the Supreme Court of the United States herewith a full, true and correct transcript of the Record, Assignment of Errors and Bill of Exceptions and all proceedings in this case, certified under my hand and Seal of said Court this March 12, 1912.

E. O. LOCKE, Clerk U. S. District Court, So. Dist. Fla.

65 THE UNITED STATES OF AMERICA:

The President of the United States to the United States of America, and John M. Cheeney, District Attorney of the United States for the Southern District of Florida, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held in the City of Washington within thirty days from the date of this writ, pursuant to a Writ of Error filed in the Clerk's office of the District Court for the Southern District of Florida, wherein Louis Athanasaw and Mitchell Sampson are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the Supreme Court of the United States of America, this 24" day of

Feb'v A. D., 1912.

JAMES W. LOCKE,
District Judge of the United States
for the Southern District of Florida.

[Seal District Court of the United States, Southern District of Florida.]

Attest:

E. O. LOCKE, Clerk, By W. R. WATKINS,

Deputy Clerk of the District Court for Southern District of Florida.

Service accepted and all further notice and service waived. This February 24th, 1912.

J. M. CHENEY, U. S. District Attorney for Southern District of Florida.

[Endorsed:] In the District Court of the United States for the Southern District of Florida. The United States of America v. Louis Athanasaw and Mitchell Sampson. Citation. Filed this 24th day of Feby, A. D. 1912. E. O. Locke, Clerk, by W. R. Watkins, Deputy Clerk.

Endorsed on cover: File No. 23,108. S. Florida D. C. U. S. Term No. 588. Louis Athanasaw and Mitchell Sampson, plaintiffs in error, vs. The United States. Filed March 21st, 1912. File No.

23,108.

# In the Supreme Court of the United States.

OCTOBER TERM, 1912.

Louis Athanasaw and Mitchell Sampson, plaintiffs in error,

2).

THE UNITED STATES.

No. 588.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

#### MOTION TO ADVANCE.

The Solicitor General, on behalf of the United States, moves the court to advance this case for hearing during the present term with Nos. 381, 602, and 603, in which cases like motions are submitted.

All are criminal cases, arising under the act of Congress, approved June 25, 1910, 36 Stat. 825, known as the White Slave Traffic Act, and involve the constitutionality of that act.

In this case plaintiffs in error were convicted of violating the statute by causing a young girl to go from Atlanta, Ga., to Tampa, Fla., in interstate commerce, for the purpose of prostitution. Athanasaw was sentenced to a term of two years and six months and Mitchell to a term of one year and three months in the penitentiary.

02315-12

The trial court overruled a demurrer to the indictment and a motion in arrest of judgment which challenged the constitutionality of the act. Such rulings and the refusal of the court to submit certain charges to the jury are assigned as error in this court.

Notice has been given of this motion.

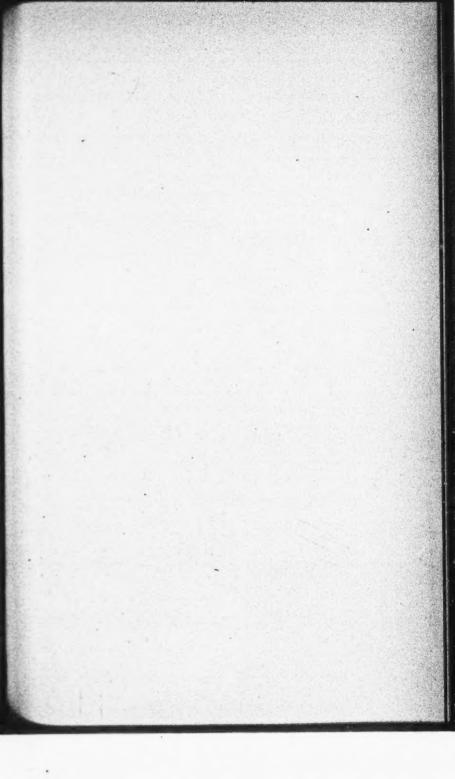
WILLIAM MARSHALL BULLITT, Solicitor General.

WILLIAM R. HARR,

Assistant Attorney General.

OCTOBER 15, 1912.

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#### IN THE

## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

## No. 588.

LOUIS ATHANASAW AND MITCHELL SAMPSON,
PLAINTIFFS IN ERROR,

vs.

THE UNITED STATES, DEFENDANT IN ERROR.

WRIT OF ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

## BRIEF OF PLAINTIFFS IN ERROR.

## Statement.

At a term of the Circuit Court of the United States for the Southern District of Florida, on the 16th day of December, 1911, the plaintiffs in error, Louis Athanasaw and Mitchell Sampson, hereinafter called defendants, were indicted for a violation of the act of Congress of June 25, 1910, commonly called "The White Slave Act," in that they had transported, or caused to be transported, or aided in the transportation of a girl by the name of Agnes Couch from Atlanta, Georgia, to Tampa, Florida, for the purpose of debauchery.

The indictment, which will be found in the record on pages one to eleven, contains thirty-nine counts, the several counts charging a violation of the second and third sections of the act of Congress above mentioned in different ways, each count, however, charging that the unlawful purpose for which the girl was transported was debauchery; no count in the indictment charging either that the girl was transported for the purpose of prostitution or for any other immoral purpose.

On the 20th day of February, 1912, the defendants filed a demurrer to the indictment and each count thereof, which demurrer will be found on page 12 of the record, upon the

following grounds:

A. The act of Congress under which the said indictment is found is unconstitutional and void.

First. For the reason that there is no grant of power by the Constitution to Congress to legislate upon the subject.

Second. Because the said act of Congress in no way directly affects any subject-matter over which Congress has jurisdiction.

Third. Because the act sought to be punished by the act of Congress is one wholly within the police power of the several States.

B. Said indictment fails to state the persons sought to be debauched.

C. The said indictment fails to allege that the purpose of debauchery existed in the minds of the defendants.

D. The said indictment fails to allege that the purpose of debauchery existed in the minds of the defendants at any time prior to or during the transportation of the woman.

E. Said indictment is bad for the reason that there is no allegation that the woman was actually transported in interstate commerce.

Which demurrer was overruled by the court (see Record,

page 12).

And thereupon a trial was had upon pleas of not guilty, and verdict of greendered against both of the defendants, and judgment entered (see Record, page 13).

Afterwards, on the 24th of February, 1912, a motion in arrest of judgment was filed by the defendants, in words

following:

1. The act of Congress under which the indictment in

this case is found is unconstitutional.

2. The act of Congress under which the indictment is found is not within the powers delegated to Congress by the Constitution of the United States.

3. Because each count of the indictment is bad in that it does not allege that the intent to debauch the said Agnes Couch, or to cause her to be debauched, or to compel, incite, or coerce her to give herself up to debauchery is alleged in said indictment to have existed in the minds of either of the defendants at the time of the inception or during the transportation of the said Agnes Couch.

This motion is found in the record, pages 13 and 14; which motion was overruled by the court (see Record, page 14).

From the judgment of conviction thus rendered the defendants sued out a writ of error to this court, and filed the following assignment of errors, which said assignment of errors will be found in the record, on pages 15 to 17.

# IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

### THE UNITED STATES OF AMERICA'

28.

LOUIS ATHANASAW and MITCHELL SAMPSON.

Now come the defendants in the above-entitled cause and at the time of filing their petition for a writ of error to the Supreme Court of the United States, and assign the following errors, to-wit:

- 1. The court erred in overruling the demurrer of the defendants to the indictment, and to each count thereof.
- 2. The court erred in holding that the act under which the defendants were prosecuted, being an act of Congress commonly called the "White Slave Act," was constitutional.
- 3. The court erred in denying the defendants' motion for a new trial.
- 4. The court erred in denying the defendants' motion in arrest of judgment.

5. The court erred in refusing to charge the jury, as requested by the defendants, as follows, to-wit:

"The court instructs the jury that before they can find the defendants or either of them guilty under the indictment in this cause it must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring, of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and that at the time of the procuring or aiding in the procuring of said transportation the defendants, or one of them, had the intent at that time either themselves to debauch the said Agnes Couch, or to procure her debauchment by some other person, or that they intended to induce, entice, or compel the said Agnes Couch to give herself up to debauchery."

6. The court erred in refusing to charge the jury, as requested by the defendants, as follows, to-wit:

"The court further instructs you that the word "Debauch," as used in the act of Congress under which the defendants are indicted, and in the indictment in this case, means sexual intercourse between a man and a woman."

7. The court erred in refusing to charge the jury, as requested by the defendants, as follows, to-wit:

"If the jury have a reasonable doubt from all the evidence in this cause that the defendants did not intend at the time of the procuring of the transportation to either themselves debauch the said Agnes Couch, or procure her debauchment by some other person, or to induce, entice, or compel the said Agnes Couch to give herself up to debauchery, then the jury must acquit the defendants."

8. The court erred in charging the jury as follows, to-wit: "The court instructs you that before you can find the defendants or either of them guilty under the indictment in this case, you must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and at the time of the procuring or aiding in the procuring of said transportation the defendants, both or one of them had the intent at the time to employ said Agnes Couch in a position and put her under conditions which would induce or incite her to be led into a condition of debauchery that would tend to immoral sexual intercourse."

9. The court erred in charging the jury as follows, to-wit: "Now, gentlemen, the Congress of the United States has provided that any person who shall transport or cause to be

transported or aid or assist to obtain transportation in interstate commerce (which means from one State to another) of any woman or girl for the purpose of debauchery, shall be guilty of a felony, and upon conviction shall be punished in accordance with law. Unquestionably this act although it originated for the purpose of protecting these poor unfortunate women, who by accident or otherwise had placed themselves under the control of unscrupulous persons, yet the language of the law is direct and positive in its terms and meaning, and should be construed to do everything that the United States Congress has a legal right to do and has used language with the intention to prevent and break up vice and immorality."

10. The court erred in charging the jury as follows:

"It has been proven and admitted that Agnes Couch came to Tampa at the procurement of the defendants who furnished her transportation by furnishing tickets for that purpose. The only remaining question is whether Agnes Couch was brought here for the purpose of debauchery; that is the vital point in this case; and in determining it you will examine carefully all of the testimony in connection with the procuring of her coming. It is to a certain extent a case of circumstantial evidence; and not positive and direct, but circumstantial, to be determined by all of the circumstances surrounding it. And you will examine in determining this question the position into which she was brought, the condition in which she found herself when she came, and the necessary result of such conditions; and determine from all of the testimony what was the purpose of bringing her here, whether or not it was to entice or induce her to give herself up to a life of debauchery."

11. The court erred in charging the jury as follows, to-wit:

"The intent and purpose of the defendants at the time of the furnishing of this transportation for Agnes Couch is

the very gist and question in this case. Did they intend to induce or entice or influence her to give herself up to debauchery? It makes no difference whether the profits which would be made by the defendants came from the sale of liquor or other immoral purpose. The question here is of intent; what was the intent with which they brought her, that she should live an honest, moral and proper life? or that she came and they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery or tends to or would necessarily and naturally lead her to a condition of debauchery just referred to."

12. The court erred in charging the jury as follows:

"The term debauchery is not a legal or technical term. There is no allegation that the defendants brought her here with the purpose or with the intent to debauch her; but to induce her or entice her, or influence her to enter upon a course of debauchery. The term debauchery is not a legal or technical term. To debauch is to corrupt in morals or principles; to lead astray morally into dishonest and vicious practices; to corrupt; to lead into unchastity; to debauch. Debauchery then is an excessive indulgence of the body; licentiousness, drunkenness, corruption of innocence, taking up vicious habits. The term debauchery, as used in this statute, has an idea of sexual immorality; that is, it has the idea of a life which will lead eventually or tends to lead to sexual immorality; not necessarily drunkenness or immorality, but here it leads to the question in this case as to whether or not the influences in which this girl was surrounded by the employment which they called her to did or did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily, and naturally would lead to a course of immorality sexually. That is the question for you to determine, and it is a question that you alone can determine. You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was employed. You have examined by the testimony and your observation what was the character and what was the condition or influence in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman?"

13. The court erred in charging the jury as follows, to wit:

"Now, it is contended that they must have had a deliberate intent to debauch her when she came here; that either one or the other intended to debauch her or to get somebody else to debauch her. Now, that term debauch is used in a great many instances in law, and the usual connection is to have carnal intercourse with; but there is no such language in this statute, nor is it the language of the indictment. The charge of the indictment in substance is that they induced or influenced her to enter into a life or condition of debauchery—"to induce or compel her to give herself up to debauchery."

W. A. CARTER, WALL & McKAY, Attorneys for the Defendants.

(See Record, pages 15 to 17.)

Writ of error was duly issued (see Record, page 19) and a citation was duly issued and served (see Record, page 20).

A brief statement of the testimony is as follows:

### Statement of the Testimony.

The testimony introduced by the Government was substantially as follows:

The girl, Agnes Couch, whom the indictment alleged was transported by assistance rendered by the defendants, testified that she was seventeen years of age, and resided in Suwanee, Georgia. In September, 1911, she was in Atlanta, and noticing an advertisement issued by one Sam Massell wanting ten chorus girls she answered the advertisement and saw Massell in his office in Atlanta, Georgia. She signed a contract in said office, which she read and which was practically in these terms, or practically in the terms shown by Exhibit "A" attached to the testimony. letter-head stated substantially that all ladies engaged at the theater run by Athanasaw and Sampson would be required to go in the boxes; that rehearsals would be held on certain days, and performers were expected to do two turns and work in acts when required. Drunkenness, fighting, or indecency would meet with prompt dismissal and loss of salary. And it was further provided that if any act was deemed by the manager not suitable it should be cut out. She further testified that Massell, after she had signed the contract, gave her a ticket from Atlanta, Georgia, to Tampa, Florida, over the Southern and Seaboard Air Line Railways: that she came from Atlanta to Tampa over said railroads, arriving in Tampa on the 7th of September at 6.30 a. m., and she then went to the Imperial Theater and there met Louis Athanasaw, one of the defendants, at about seven o'clock. She was shown to her room, and he took her check to get her trunk. She slept until two o'clock in the afternoon, at which hour she was awakened by one of the girls to rehearse. She went down to the theater and stayed there about an hour, rehearsing, singing, etc. She then went to lunch in the dining-room. All of the girls were in

the dining-room, and several boys. She had had no stage experience. At lunch they were all smoking and using language such that she could not eat. After lunch she went to her room, and at six o'clock Louis Athanasaw went to her room and told her she would like it all right; that she was good looking, and would make a hit; not to let any of the boys fool her and not to be any of their girl, but to be his girl. His room was next to hers, and he told her that he was coming in her room that night to sleep with her, and he kissed her and caressed her; told her to dress for the show that night and to come down into the boxes. She went down about nine o'clock (see Record, page 23). the box where she went there were four boys. They were smoking, cursing, and drinking. She sat down, and the boys asked her what was the matter, as she looked She told them she was ashamed of being in a place like that, and Arthur Schleman, one of the boys, said he would take her out. The others insisted on her staying. She tried to go out with Schleman, but another boy named Gilbert pulled her back, saying, "Let that cheap guy alone." Schleman said he would get a policeman. In about fifteen minutes Mr. Thompson and Evans came in for her. Mr. Louis Athanasaw, one of the defendants, asked what the trouble was; why she would not stay until morning, when he would send her away. He said that she could not go that night; that she could not have her trunk; that he held it for her transportation. She then went away with Mr. Thompson and Mr. Evans.

The boxes in the theater were looking over the stage; had openings on to the stage. There was a door to the back of them which could be locked and bolted. There were some chairs and tables in the boxes.

The day she signed the contract with Massell was the first time she had ever seen him. She further stated that on the preliminary examination of the defendants she testified that Athanasaw caressed, hugged, and kissed her, but

did not tell her that he proposed to sleep with her or make her his girl.

She did not know any of the boys in the box, and while in there they forced her to drink a bottle of beer and insisted upon her smoking. She had never drank beer before (see Record, page 24).

ARTHUR SCHLEMAN testified, in substance, for the Government, that he knew Athanasaw and Sampson; that they ran the Imperial Theater. He saw Agnes Couch at the theater one Saturday night between ten and eleven o'clock; that Louis Athanasaw's son brought her to the box. He had gone to see the show. In the box they got a couple of beers. Agnes Couch came in there, and he, Schleman, asked her, "Do you drink beer?" and she said, "Yes, I drink it at home." He asked her if she would have a bottle, and she said she thought so. The beer was brought, and the girl sat there awhile, and in talking to her he thought she was a decent girl. The boys were touching her and fooling with her. He thought she was decent, because it took her so long to drink the beer. He took her out of the box and spoke to her. She said she wanted to get out. He went out on the street and told Mr. Evans and Mr. Thompson there was a girl up there who wanted to get out. They said they wanted to go to a train. He then went back and tried to take Agnes Couch out. At the foot of the steps he met a Mr. Gilbert and twenty other men; thinks they were fishermen; and Gilbert asked what right he had, and Schleman told him it was none of his business, and he said he would make it his business, and the fishermen came around, taking their coats off to fight him (Schleman), and Gilbert took the girl back upstairs, and then Evans and Thompson got her out. She said she was afraid to ask Athanasaw to let her go (see Record, pages 24 and 25).

The Government then introduced L. W. Evans, who testified in substance as follows:

That he was constable, and saw the girl at Athanasaw's theater. He saw her because Schleman says, "There is a girl in there who appears to be a nice girl, and wants to leave, and the manager would not let her leave." When he got there he found the girl crying. He asked what was the matter, and she said she wanted to leave; that it was not the kind of place she thought she was coming to; that she had been booked in Atlanta to come to Tampa as a chorus girl, and after she got there it was not what she thought it was and she wanted to leave. While they were talking the defendant Athanasaw came up and said to the girl that he did not know she wanted to leave; that if she had told him he would have seen about it. She wanted to get her trunk, and Athanasaw asked us what he was going to do about his transportation. He said he was going to hold the trunk. We took the girl out and left the trunk (see Record, page 25).

The Government then introduced A. S. Thompson as a witness, who testified as follows:

That he received a complaint from Arthur Schleman about a girl at Athanasaw's place, and went up and talked to her. She said she had come to work, and was dissatisfied with the place and wanted to leave, and she had started to go and they would not let her. He took her in a buggy and carried her to Mrs. Davis. Athanasaw came up while he was talking to the girl and said, "Leave her until morning, and I will send her home." Thompson told him no; that he was going to take her then. Athanasaw says, "What about the transportation? She owes for that." Thompson told him he did not know about that; that they were going to take the girl; and he took her and left the trunk (see Record, page 25).

The Government then introduced SAM MASSELL, who testified as follows:

That he lived in Atlanta, Georgia, and that he was living there in 1911; had some correspondence with Athanasaw and Sampson, the defendants, in reference to actresses for their theater; that Agnes Couch signed the contract in his office, and he furnished the girl with a ticket, on which she came to Tampa. His business was that of theatrical booking agent. He worked in the neighborhood of fifty theaters throughout the United States, and his contract with Athanasaw and Sampson was similar to others he had (see Record, pages 25 and 26).

The defendants then introduced C. M. DICKENSON, who, in substance, testified as follows:

That he was the traffic passenger agent of the Seaboard Air Line Railway in September, 1911, and at the request of Athanasaw and Sampson he arranged for tickets to be furnished for Agnes Couch and other persons from Atlanta, Georgia, to Tampa, Florida; and also furnished other tickets, and that he did the same thing for other theaters in Tampa.

The defendants then introduced as a witness H. L. Crane, who testified in substance that he was the United States commissioner and held the preliminary examination in the case against the defendants, and that Agnes Couch was a witness at said examination; that she did not at that time state that Athanasaw either kissed or fondled her in any way; neither did she state that Athanasaw proposed to have sexual intercourse with her or that he proposed to sleep with her (see Record, page 26).

The defense then introduced E. M. MACBRYDE as a witness, who, in substance, testified as follows (see Record, page 29):

That he was a newspaper reporter; attended the preliminary hearing against the defendants; heard Agnes Couch

testify; that at said hearing she did not testify that Louis Athanasaw either hugged, kissed, or fondled her; neither did she testify that Louis Athanasaw proposed to have her for his girl, or to spend the night with her; and that at the hearing she was asked to tell all that occurred at the theater while she was there.

The defense then introduced Louis Athanasaw, one of the defendants, who testified in substance that he and Mitchell Sampson, his brother-in-law, owned the Imperial Theater; that he was a married man, and lived with his wife, and had several children. He lived some distance from the theater, and was living there at the time Agnes Couch came to the theater. That he had been running the theater for three years; that it was a regular theater, where they had dancing, singing, and do tricks; that the actresses who performed there lived in the theater—the women living on one side, which had no connection with the other, and that no men were allowed in the part of the building where the women lived; that the way Agnes Couch came to Tampa, Massell had agreed to book his theater, and that he sent tickets, at Massell's request, to Atlanta for actresses to come; that on the day Agnes Couch reached Tampa he was at home, and had received a telephone message that a lady wanted to see him, and that he went, and had the following conversation. She said, meaning Agnes Couch, "I want to see the boss." I said, "I am the boss." She said, "I book this theater from Atlanta for four weeks at twenty dollars a week." I said, "What time do you want to go to work?" She said, "Monday, the eleventh." I asked her then if she was going to stay there until Monday, or somewhere else. She said, "Your contract was for all performers to stay in the house, and that she would like to see her room, as she had been on the road all night." I went upstairs and asked the housekeeper if the room was ready, and she said that the corner room was, so I let Agnes Couch go there. From that time I never saw her until Mr. Thompson, the policeman, came for her. I asked Mr. Thompson what was the matter, and he said, "I got a complaint to make. I am going to take this lady from here." I told him, "All right; to take her away, and I never saw her no more." The next morning she sent for her trunk. I never made any improper proposals to Agnes Couch or fondled her in any way. I never saw her before that morning I met her at the theater (page 29 of Record).

The rules (see printed copy of letterhead attached to transcript as Exhibit A, page 26 of Record) of the theater, and which are enforced, are not to allow men to visit the women in the building. The women's part of the house was run by a woman, Miss Ray Lewis; she was the house-

keeper.

Athanasaw testified he was fifty years old.

The defense then introduced as a witness one MITCHELL SAMPSON, one of the defendants, who, in substance, testified as follows:

That he was Louis Athanasaw's partner in the Imperial Theater; that he was not in Tampa at the time Agnes Couch came, or at the time she left. He left Tampa on the 9th and never saw Agnes Couch; that the letters attached to Massell's testimony were written by me. He only intended Massell to send actresses to perform in the theater.

The defense then introduced as a witness RAY LEWIS, who, in substance, testified that she was the housekeeper in the theater at the time Agnes Couch was there; that no men were allowed to visit the rooms where the women performers slept or lived; that the rooms were entirely under her supervision, and that she never saw any men in those rooms at all.

This was substantially all the testimony.

The questions raised by the defendants, and to be decided by this court, are, briefly, as follows:

First. The White Slave Act is unconstitutional.

Second. Certain errors claimed to have been committed by the court in instructing the jury both in the refusal to give certain charges requested by the defendants and in the giving of certain charges by the court of its own motion.

#### ARGUMENT.

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The first assignment of error (Transcript, p. 15) was that the court erred in overruling the demurrer of the defendants to the indictment and to each count thereof.

The demurrer to the indictment, which is found upon page 11, Transcript, under subdivision A thereof, sets out the following grounds:

The act of Congress under which the indictment is found is unconstitutional and void:

First. For the reason that there is no grant of power by the Constitution to Congress to legislate upon the subject.

Second. Because the said act of Congress in no way directly affects any subject-matter over which Congress has jurisdiction.

Third. Because the act sought to be punished by the act of Congress is one wholly within the police power of the several States.

The second assignment of error is that the court erred in holding that the act under which the defendants were prosecuted, being an act of Congress commonly called the "White Slave Act," was constitutional.

The fourth assignment of error is that the court erred in denving the defendants' motion in arrest of judgment.

The motion will be found upon page 13 of the Transcript, and contains the following grounds:

First. The act of Congress under which the indictment in this case is found is unconstitutional.

Second. The act of Congress under which the indictment

is found is not within the powers delegated to Congress by the Constitution of the United States.

The question, therefore, to be discussed, under the First Assignment of Error, raised in the several ways above stated, is whether the act of Congress under which the defendants were indicted is constitutional.

We contend that the said act is unconstitutional, first, for the reason that it violates Article IV, section 2 of the Constitution of the United States, which reads as follows:

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

Secondly, we contend that the act is unconstitutional in that it violates the Ninth Amendment to the Constitution of the United States, which reads as follows:

> "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Third. We also contend that the said act of Congress under which the defendants were indicted is unconstitutional in that it violates the Tenth Amendment to the Constitution, which reads as follows:

> "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Addressing ourselves to this point we contend, first, that the act of Congress violates Article IV, section 2, of the Constitution.

We contend that, under the Constitution of the United States, every citizen thereof has the right to travel at pleasure from one State to another, and the only power of Congress to deal with this right is that given by the Constitution to Congress in reference to the extradition of fugitives from justice from one State into another. The intent, or the motive, that actuates the citizen in making a journey from one State to another is not a matter upon which Congress has the power to legislate.

Upon this subject, and this fundamental right, the argument of Honorable John Randolph Tucker, of Virginia, in his book upon the Constitution of the United States, found upon the pages hereinafter enumerated, is so terse and clear that we will ask the indulgence of the court to quote from it at large.

Page 530, volume 2, of said work, paragraph D, reads as follows:

"But there is another general clause of the Constitution which is clearly a denial of any such power by Congress. It declares that 'Citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.' In considering the meaning of this clause we must anticipate, in some respects, be more appropriately discussed hereafter. It will be perceived that this is a declaration of the personal right of every citizen, and belongs to him as such. No Federal or State law gives it to him; he holds it by the higher title of the Constitution itself. If, therefore, any regulations of commerce should invade the right conferred by this article, it would be, under Judge Marshall's canon, prohibited to Congress by the Constitution. It is a personal right which neither Congress nor a State can impair. gives to a citizen in any State a passport to every other, and confers upon him the privileges and immunities which attach to the citizen of that other. The broad scope of this clause can be obtained from the history of its adoption. Under the Articles of Confederation, which brought the States and the people of the States into close and intimate relations. which were intended to be more close and more intimate under the more perfect union formed by the Constitution, it was incorporated in the following words: 'The better to secure and perpetuate mutual

friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided, also, that no imposition, duties or restriction shall be laid by any State on the property of the United States, or either of them.'

"'If any person guilty of, or charged with treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall upon demand of the Governor or executive power of the State from which he fled, be delivered up and removed to the State hav-

ing jurisdiction of his offense.'

"Full faith and credit shall be given in each of these States to the records, acts and judicial proceedings of the courts and magistrates of every other State.'

"Mr. Madison, in the Federalist, refers to this fourth article of Confederation, and indicates very clearly that the words 'privileges and immunities' written in this clause of the Constitution were deemed sufficient to include all the specific privileges of trade, etc., which were embodied in the fourth This article of the Conarticle of Confederation. stitution was proposed in Mr. Pinckney's first plan in the words of the present clause of the Constitution: and was reported in the same form from the Committee of Detail, and by the Committee of Style, and was finally incorporated into the Constitution without change. That this clause of the Constitution was intended to be a condensed statement of all the particulars mentioned in the Articles of Confedera-

tion cannot be doubted. If so, the right of the people of each State to have free ingress and egress to and from every other State, and to enjoy therein all privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, with the power of removal of the property of a citizen in one State to any other State of which the owner might be an inhabitant, is undoubted. Mr. Justice Washington, in Corfield vs. Coryell, defines these words 'privileges and immunities' in language which has been accepted with judicial approval ever since. He says they are intended to embrace rights fundamental in their nature, such as belong of right to the citizen of any free government; to secure 'protection by the Government, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, etc. This definition was approved by Chief Justice Taney in the Passenger cases, by the court, speaking by Justice Field, in Paul vs. Virginia, and by the decision of the Supreme Court, through Mr. Justice Miller, in the Slaughter-House cases, citing the case of Ward vs. Maryland."

In paragraph 256, of the same work, the following language is found:

"Mr. Justice Miller, in the Slaughter-House cases, supra, says distinctly that the purpose of the fourth article of the Confederation and of the clause of the Constitution is the same; 'and that the privileges and immunities intended are the same in each.' In the Articles of Confederation 'we have some of these specifically mentioned, and enough perhaps to give some general idea of the class of civil rights meant by the phrase.' He further declares that these privileges and immunities were those within the province of the State itself where the privileges and immunities were claimed; that the 'effire domain of the privileges and immunities of citizens of the States, as above defined lay within the constitutional and legislative power of the States, and without that

of the Federal Government.' It is, therefore, obvious that this right conferred by the Constitution upon the citizens of each State included free ingress and egress of persons and property and the like, and put them beyond the reach of the power of the States, and, a fortioni, beyond the power of the Federal Government. The power, therefore, of Congress to tax or prohibit interstate commerce, including the intercourse of persons, did not exist in Congress or in the States. Congress may regulate such commerce so as to promote it and secure its safety, but cannot forbid it or tax it.

"In a dissenting opinion in Stoutenburgh vs. Hennick, Mr. Justice Miller relies upon this construction of the clauses to the rights of a citizen as being a limitation upon the power of the States to

tax drummers.

"These considerations conclusively show that the power to regulate interstate commerce is not commensurate with the power of Congress to regulate foreign commerce; and while it may prohibit the transitus of persons from foreign countries into the United States as a whole, and prohibit commerce in things by embargo, yet no such power is vested in Congress as to interstate commerce. A confirmation of this conclusion might be derived from the requirement of uniformity of duties, imposts and excises; and from the prohibition upon Congress of making any regulation of commerce which would give preference to the ports of one State over those of another. The whole Constitution, in all of its parts, looks to the security of free trade in persons and goods between the States of the Union, and by this clause prohibits either Congress or the States to interfere with this freedom of intercourse and trade."

To the same effect, the Supreme Court of Alabama, in volume 71, page 499, in the case of Joseph vs. Randolph, in passing upon an act of the legislature of Alabama which forbade any person to employ or induce laborers to leave certain counties for the purpose of removing them from

the State without paying a designated license tax, declared the act was unconstitutional.

The first head-note of the said decision reads as follows:

"Under constitutional provisions, both State and Federal, every citizen of the United States and of the several States of the Union, has, as an attribute of personal liberty, the right of free egress from, and transit through the State, unless restrained by due course of law; and this right is subject only to such legislative regulations as may be imposed by the exercise of the police power of the State, or as may remotely affect it in the legitimate exercise of the power of State taxation."

To sustain this proposition the court of Alabama cites Cooley on Constitutional Limitations, section 342, and also quotes Sir William Blackstone to the following effect:

"The power of locomotion, of changing situation, or of moving one's person to whatsoever place one's inclination may direct, without imprisonment or restraint, unless by due process of law."

And this court, in the case of Crandall vs. State of Nevada, 6 Wallace, page 35, held "the right of passing through a State by a citizen of the United States is one guaranteed to him by the Constitution, and must be sacred from State taxation."

"All the citizens of the United States, as members of the same community must have the right to pass and repass through every part of it without interruption as freely as in their own State."

See also the case of Paul vs. Virginia, 8 Wallace, page 168; U. S. vs. Harris, 16 Otto, page 629.

It might be contended by the Government that the argument herein expressed is not applicable for the reason that the act itself does not prohibit the woman or girl from making the interestate trip, but only prohibits any person aiding.

assisting, procuring or inciting her to make the trip. It would be an unheard-of proceeding that it should be a crime for a citizen to aid another in doing a perfectly lawful act. Therefore, if Congress has not the power to prohibit the woman or the girl from traveling in interstate commerce for the purpose specified in the act, clearly it is beyond its power to prohibit a person from aiding, assisting, or procuring the person so to travel. If the girl, or the woman, has the inherent right, under the Constitution, as we think the authorities show she has, to travel from one State to another, any citizen has the right to aid her in so traveling.

### Power to Regulate Interstate Commerce.

It may be contended, however, by the Government that the power to pass this act is delegated to Congress by virtue of that clause in the Constitution of the United States being found in the first article of the Constitution, in section five, wherein the power is delegated to Congress to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

In considering whether this section gives Congress the power to pass this act, it is first well to consider the difference in the power granted to Congress to regulate commerce with foreign nations, and that to regulate commerce among the States. The power, in the one case, is vastly greater than the power in the other case. And, the fact that the Government of the United States has the power to either prohibit alien prostitutes from coming into the country, or to deport them from the country, would not give it the same power in reference to prostitutes traveling from one State to another.

Tucker on the Constitution, in discussing this question, on page 528 of the second volume of his work, says:

"But does the power so extensive in its reach as to foreign commerce have the same interpretation as to interstate commerce? A negative answer must be given to this question. The considerations which justify this conclusion are too important to be omitted.

"Under the Articles of Confederation the States could interdict trade inter se. The grant of power to Congress to regulate interstate commerce was with the purpose not to transfer this power of interdicting interstate trade to Congress, but to leave interstate commerce free, as the Constitution intended, in order to form a more perfect union. Could the Constitution have intended to destroy the freedom of interstate trade by Congressional power, when it took it from the States and vested it in Congress in order to prevent such destruction? In the case of Railroad Company vs. Richmond, Mr. Justice Field, speaking of this purpose in language which authorized the preceding statement, distinctly says: "The power to regulate commerce among the several States was vested in Congress in order to secure equality and freedom in commercial intercourse against discriminating State legislation; it was never intended that the power should be so exercised as to interfere with private contracts not designed at the time they were made to create impediments to such intercourse.' Again, he says it was 'designed to remove trammels upon transportation between different States which had previously existed, and to prevent the ereation of such trammels in future.' And, in speaking of the acts of Congress called in question, he says: 'They were intended to reach trammels interposed by State enactment or by existing laws of Congrees.

"If it is objected that the phrase to 'regulate commerce' may mean the same power in reference to interstate trade as it does as to foreign trade, the answer is very easy. These regulations of commerce of either kind may be made by law, if the law be necessary and proper to carry the power into execution. A law that is necessary and proper to protect our vessels and the property engaged in foreign commerce against foreign enemies would not be necessary or proper as to interstate trade in a union be-

tween friendly States united under the Constitution. The word 'proper' means, says Judge Story, in the clause cited by Chief Justice Chase, 'bona fide appropriate.' He says it is at once admonitory and directory. Can it be 'bona fide and appropriate' in the exercise of a power which is delegated to make a 'more perfect union' between the States, to pass a law which would disunite the States by antagonistic commercial relations between them? Can it be sppropriate to the end of 'domestic tranquillity' to sow the seed of controversy and rivalry between them in

their trade inter se?

"When we look at all powers vested in Congress as trust powers to be used for the States as beneficiaries and as members of one family of Commonwealths, so to be used as to promote union and not disunion; to establish harmony and peace and not discord and hostility between the States, it must be inevitably predicted that the courts will never hold any law of Congress, which prohibits, restricts or ties interstate commerce, to be either necessary or proper as a regulation of commerce, but they must hold it to be a perversion of its trust power to the subversion of the fundamental principles of the Constitution. The power to regulate foreign and interstate commerce was given in the same terms diverso. intuitu. In the first, to protect all against the machinations of foreign enemies; in the second. to protect and promote the free and unobstructed movement of men and things between the States in the family of the Union."

In construing the power to regulate commerce, all other provisions of the Constitution must be considered; and, therefore, where the Constitution, as it does by article four, section two, gives a certain right to a citizen of the United States, power of Congress to act is limited to that extent.

And, again, the power to regulate commerce between the States, in our judgment, was never intended to apply to the person himself in moving from State to State, but only to the regulation of the vehicle, fare, etc., and the provision of any statute interfering with this right is void, and the power to regulate commerce only applies while the interstate carriage is going on, and to those matters that are intimately connected with the interstate carrier.

This act, in terms, does not seek to prevent a prostitute traveling from one State to another, or while she is upon the vehicle of interstate carriage, nor does it seek to prohibit a carrier from transporting her, nor does it seek to punish an innocent girl being transported for the purposes prohibited in the act, nor does it seek to punish the carrier for carrying; it only punishes the person living in one or the other of the two States involved who, in fact, under the terms of the act, may never leave the State of which he is a resident and in no way come in contact with the interstate carrier. In other words, the act has no reference whatever to those matters of interstate commerce delegated to the power of Congress, but indirectly punishes a citizen of a State for committing a crime in the State of which he is a citizen.

Said act conflicts with the Ninth and Tenth Amendments to the Constitution and infringes the reserved police power of the State.

We contend, again, that the act of Congress under which the defendants were indicted is not passed under any power given to Congress by the Constitution, but is directly in conflict with the Ninth and Tenth Amendments to the Constitution, which reserved to the States severally the powers not delegated by the Constitution to the United States, and not by the Constitution prohibited to the States. The last analysis of this act can show only one thing, and that is that it is an effort upon the part of Congress to enact and enforce a police regulation for the protection of the citizens of the several States, and not for the purpose of regulating commerce between or among the States. The right of the protection

of the morals of the people of the several States is a right reserved to each State, and is not only not delegated to Congress, but is by the terms of the Constitution taken away from the Congress of the United States.

We desire to call the court's attention to the case of Joseph Keller vs. United States, reported in the 29th volume Supreme Court Reporter, page 470. The head note of that case

reads as follows:

"Congress had not the power to enact the provisions of the act of February 20, 1907, for the criminal punishment of the mere keeping, maintaining, supporting, or harboring, for the purpose of prostitution, any alien woman within three years after she shall have entered the United States."

The purpose of the "White Slave Act," under consideration, is precisely the same as in the act set out in the Keller case. It is an attempt upon the part of Congress to regulate the morals of the citizens of the several States, and is beyond the constitutional power of Congress.

Mr. Justice Brewer rendered the opinion in the last-mentioned case, and his language throughout the opinion is peculiarly apt to the act under discussion. The closing part

of that opinion reads as follows:

"Although Congress has not largely entered into this field of legislation, it may do so, if it has the power. Then we should be brought face to face with such a change in the internal conditions of this country as was never dreamed of by the framers of the Constitution. While the acts of Congress are to be liberally construed in order to enable it to carry into effect the powers conferred, it is equally true that prohibitions and limitations upon those powers should also be fairly and reasonably enforced. To exaggerate in the one direction and restrict in the other will tend to substitute one consolidated government for the present Federal system. We should never forget the declaration in Texas vs. White, that 'the Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.'"

We beg leave again to quote the language of the present Chief Justice of this court in the case of Howard vs. I. C. R. Co., reported in 28th volume Supreme Court Reporter, and that portion of the language contained in paragraph three, page 147, reading as follows:

"It remains only to consider the contention which we have previously quoted, that the act is constitutional although it embraces subjects not within the power of Congress to regulate commerce, because one who engages in interstate commerce thereby submits all his business concerns to the regulating power of Congress. To state the proposition is to refute it. assumes that, because one engages in interstate commerce, he thereby endows Congress with power not delegated to it by the Constitution; in other words, with the right to legislate concerning matters of purely State concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve since it treats the right to engage in interstate commerce as a privilege which cannot be availed of except upon such conditions as Congress may prescribe, even although the conditions would be otherwise beyond the power of Congress. It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the States as to all conceivable matters which, from the beginning, have been, and must continue to be, under their control so long as the Constitution endures."

We beg to call the court's attention to the opinion of the Supreme Court of the United States in the case of the City of New York vs. Miln, 11 Peters, 102, where the court, on page 139, uses this language:

"We plant ourselves on what we consider impregnable positions. They are these: A State has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, when

the jurisdiction is not surrendered or restrained by the Constitution of the United States. That by virtue of this it is not only the right but the bounden and solemn duty of the State to advance the safety, happiness and prosperity of its people, and to provide for their general welfare, by any and every act of legislation, which it may deem conducive to these ends, when the power over the particular subject or the manner of its exercise is not surrendered or restrained in the manner just stated. That all those powers which relate to mere municipal legislation, or what may perhaps more properly be called internal police powers, are not thus surrendered or restrained; and consequently in relation to these, the authority of a State is complete, unqualified and exclusive. If we were to attempt a definition of this internal police [power] we should say every law came within this description which concerns the welfare of the whole people of the State or of any individual within it; whether it related to their rights or their duties: whether it respected them as men or as citizens, whether in their public or private relations; whether it related to the rights of persons or of property, of the whole people of the State or of any individual within it; and whose operation was within the territorial limits of the State and upon persons and things within its jurisdiction."

See, also, sustaining this proposition State vs. Ry. Co., 27 W. Va., page 783.

If it be conceded that Congress has the power to prohibit the carriage of persons or property in interstate commerce solely on account of the intent of the person procuring or aiding the transportation, then the entire police power of the States severally will be absorbed by the National Government. In other words, Congress would have the power to prescribe that if a person imported from another State a pistol, with the intent when it had reached its destination to commit murder, that he should be guilty of a crime. It would have the power to create offenses unlimited.

The Government will probably contend that the Lottery

Case, 188 U. S., page 22, is authority upon which the court should sustain the present act. We beg, however, to dissent from this proposition. In the first place, the Lottery Case involved the transportation of a commodity, and the regulation thereof was not limited by that provision of the Constitution, article IV, section 2, applicable to persons, because it cannot be contended that a lottery ticket enjoys under the Constitution any privilege or immunity which a man or woman is guaranteed. Again, the Lottery Case was regulating a subject that directly entered into interstate transportation, and was in itself a commodity being transported, and over which Congress had supreme power. present statute in contradistinction does not punish the carrier for transporting the woman, nor does it punish the prostitute herself, nor does it punish anything that occurs during the transportation; but it punishes a citizen of a State who in no way passes over the interstate carrier, and if he commits any crime at all it is a crime against the sovereignty of the State in which he resides and not against the Federal Government at all.

Decisions of the United States Courts Sustaining the Constitutionality of the Act in Question.

We find upon consideration that the first time the constitutionality of this act was drawn in question was November 17, 1910, in the case of the United States vs. Westman, 182 Federal Reporter, page 1017, the court there sustaining the constitutionality of the act.

It will be noticed in reading the decision that the court did not take into consideration at all article IV of section 2 of the Constitution in rendering its decision, nor did it discuss in any way to what extent article IV, section 2, of the Constitution modified the commerce clause of the Constitution. The court also further failed to take into consideration the due weight to be given the language of the previous decisions of the Supreme Court in considering com-

merce in regard to persons. As we read those decisions there is no enunciation by the Supreme Court that Congress has the right to regulate the passage of persons from State to State. What they did hold is that Congress has the right to regulate the transportation—that is, the facilities, the rates of fare, and things of that kind.

The statute again came up for consideration in the case of United States vs. Warner, 188 Federal, page 682. In the decision there Judge Holt, who rendered the decision, stated that if it was an original question in his opinion the act would be unconstitutional, but he felt himself bound by the previous decision in the 182 Federal and by the Lottery Cases and the Passenger Cases in 7th Howard.

We have attempted in other parts of this brief to draw a distinction between the Lottery Cases and the case at bar, and in the decision rendered by Judge Holt the modification of the commerce clause by article IV, section 2, of the Constitution is not referred to.

The next time the statute reached the courts for consideration was in the case of Bennett vs. United States, 194 Federal, page 630. In this decision the court does not seem to have noticed the modification of the commerce clause of article IV, section 2, of the Constitution, and again the court in its opinion makes this statement in regard to the act under consideration:

"The primary thing forbidden is the inducing of a person to come into a State with unlawful purpose by the inducer, and in aid of such unlawful purpose, but without direct regard to the innate character or purpose of the person induced. It is this primary thing, and the incidental transportation by the carrier, which are forbidden and penalized."

If this is the real meaning of the act, we feel unhesitatingly that the act is unconstitutional, because under the commerce clause the primary purpose must be the protection of interstate commerce and not the enforcement of the police regulations incidental to such commerce.

The same court uses again the following language:

"We do not find in the statute either the purpose or fear to interfere with the police powers of the State. The law is directed only against the inducing or performing of interstate transportation, and this entire subject is obviously not within the scope of the police power of any State, hence its exercise cannot be the invasion of such power."

We think clearly in this expression that the court misconstrues the power of Congress under the commerce clause of the United States. If the law be directed solely against the inducing or performing of intersecte commerce, it is merely incidental to interstate commerce, and is not the proper matter of regulation by Congress, but the inducer should be left to be dealt with by the police power of the State.

Again this act came before the court for consideration in the case of Kalen vs. The United States, 196 Federal, page 888.

In reading the opinion in this case it will be found that the court did not really consider the constitutionality of the act as a new question, but held itself bound by the decisions of the court in the case of United States vs. Westman, and United States vs. Warner, supra, and the earlier decisions of Gibbons vs. Ogden, and the Passenger Cases in 7th Howard, and we have heretofore shown to the court the weight and effect that should be given to said decisions.

We take it that it is incumbent upon this court now to consider the constitutionality of this act as a question of first instance, and the decision of which will necessarily have far-reaching effect upon the respective powers of Congress and that of the several States. We cannot conceive of any question that has within recent years been presented to this court that would require greater consideration in its ultimate determination.

Errors Assigned upon Instructions Given by the Court.

The indictment in this cause was framed under sections 2 and 3 of the act of June 25, 1910, known as "The White Slave Act," as contained and published in the laws of the United States of 1910, beginning on page 825, the two sections reading as follows:

"SEC. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution. or to give herself up to debauchery, or any other immoral practice, whereby such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

"SEC. 3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in

interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or both at the discretion of the court."

Before discussing seriatim the errors assigned upon the instructions we desire to call the court's attention generally to the set.

It will be noticed that this act punishes any person who either transports, or causes to be transported, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose in section 2, and in section 3 the act punishes any person who knowingly persuades, induces, entices or coerces or causes to be persuaded, induced, enticed or coerced, or aids or assists in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in interstate commerce for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent of such person that said woman or girl shall engage in the practice of prostitution or debauchery, or in any other immoral practice.

The court will further notice that the Congress of the United States calls this act, in the act itself, the "White Slave Act." The first question to discuss, therefore, is the meaning of the words "prostitution," "debauchery," and

"other immoral practice" as used in this act.

We do not presume there can be any room to doubt the meaning of the word "prostitution." We also do not think there can be any reasonable discussion over the word "debauchery," as the same has acquired previous to its use in this statute a well-known common-law meaning, to wit, sexual intercourse between a man and a woman.

See Anderson's Law Dictionary, page 314; also Abbott's

Law Dictionary, vol. 1, page 348.

In Lewis' Sutherland Statutory Construction, volume 2, page 757 (second edition), section 398, the author in discussing the meaning of the words in a statute uses the following language:

"Where a statute uses a word which is well known, and has a definite sense at common law, or in the written law, without defining it, it will be presumed to be used in that sense, and will be so construed unless it clearly appears it was not so intended. Words having a precise and well-settled meaning in the jurisprudence of a country are to be understood in the same sense when used in statutes, unless a different meaning is unmistakably intended."

The word "debauch" having, as we have shown, a well-settled meaning at the common law and in the jurisprudence of the United States, it must be taken to have been intended in that meaning in the statute under discussion; but further than this the whole act shows that the word was used in this sense, and there is nothing in the context of the act to show that it was used in any other sense.

We call the court's attention here to the fact that throughout the indictment in this case the only statutory word used defining the criminal act of the defendants is the word "debauchery." The word "prostitution" is not referred to in the indictment, nor of "any other immoral practice" set up in any charge of the indictment; therefore in order to convict the defendants in this case the Government had to prove that the girl in this case was transported in interstate commerce for the purpose of debauchery.

In the light of some of the instructions given by the court, which will be hereinafter discussed, although we think inspellicable, owing to the restricted charge in the indictment, the meaning of the words "engage in other immoral practice," Mr. Lewis' Sutherland Statutory Construction, volume 2, section 422 (second edition), uses the following language in regard to the construction of such words in a statute:

"Where there are general words following particular and specific words, the former must be confined to things of the same kind. This is known as the rule or doctrine of ejusdem generis. Some judicial statements of this doctrine are here given. When general words follow an enumeration of particular things, such words must be held to include only such things or objects as are of the same kind as those specifically enumerated."

The statute in this case having set out prostitution and debauchery, these particular words with the general words, "and other immoral practice," the words "other immoral practice" must be construed to mean practices similar in character to debauchery or prostitution, and they cannot be used to enlarge the meaning of the statute to other practices than those of a similar kind.

Again, by virtue of the enacting law containing a name to be given it, to wit, "The White Slave Act," by no method of construction can the words "other immoral practice" be construed to mean anything broader than prostitution and debauchery, or similar practices.

With these general observations we proceed to discuss the instructions refused and given by the court to which exceptions were taken seriation.

The fifth assignment of error is that the court erred in refusing to instruct the jury at the request of the defendants as follows:

> "The court instructs the jury that before they can find the defendants or either of them guilty under the indictment in this cause it must be satisfied be

yond a reasonable doubt from the evidence that the defendants, or one of them, procured or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida; and that at the time of the procuring or aiding in the procuring of said transportation the defendants, or one of them, had the intent at that time either themselves to debauch the said Agnes Couch, or to procure her debauchment by some other person, or that they intended to induce, entice, or compel the said Agnes Couch to give herself up to debauchery."

The above charge, as requested, will be found in the bill of exceptions, on page 30 of the transcript.

Clearly the court erred in refusing to give this instruction. The act of Congress attempts to punish a person for knowingly procuring or aiding in the procuring of the transportation of a female for the purpose of debauchery. The gist of the offense being the intent of the person aiding in procuring the transportation, and unless the facts set out in the foregoing charge were found to be true the jury had no right to convict the defendants. It is true that the act of Congress provides that if a person procures the transportation in interstate commerce of a woman or girl to become a prostitute, or to give herself up to debauchery, or to engage in any other immoral practice, he shall be punished as set out in the act. But even if the expression "in other immoral practice" would include any act other than prostitution and debauchery (in the case at bar there was no charge in any of the counts of the indictment of any other purpose save that of debauchery), therefore the charge requested was clearly correct.

The sixth assignment of error is that the court refused to charge the jury as follows:

"The court further instructs you that the word 'debauch,' as used in the act of Congress under which the defendants are indicted, and in the indictment in this case means sexual intercourse between a man and a woman."

The request for this charge will be found in the bill of

exceptions on page 30 of the record.

The definition of the term "debauchery" as requested in the foregoing charge is the only legal definition we know of. See Abbott's Law Dictionary, volume 1, page 348, where the word is defined in the terms requested in this charge, to wit:

"Debauch. To entice, to corrupt, and when used of a woman to seduce. Originally the term had a limited signification, meaning to entice or draw one away from his work, employment or duty, and from this sense its application has enlarged to include the corruption of manners, and violation of the person. In its modern legal sense the word carries with it the idea of carnal knowledge, aggravated by assault, violence, seduction, ravishment."

See also Anderson's Law Dictionary, page 314, where the term is likewise defined:

"Debauch. In French debauche from the shop; to entice away from work or duty. To entice and corrupt. Referring to a woman it first meant to seduce, then to seduce and violate, in which two-fold sense it is used in the law."

See also the work on Words and Phrases Judicially Defined, volume —, page 1863, where the definitions of this word are given, and they coincide with that hereinbefore set out.

It is a principle of law so well settled that no authorities need be cited to sustain that wherever a technical word is used in a statute, unless the context shows the word was used in a different sense, the word is used in its technical meaning; and more aptly does this apply to the statute under consideration, for the reason that Congress in passing the law under consideration called it "The White Slave Act," and even the popular meaning of the "White Slave Act," shows that the word "debauch" was used in the technical and legal sense above referred to.

The seventh assignment of error is that the court refused to charge the jury as follows:

"If the jury have a reasonable doubt from all the evidence in this cause that the defendants did not intend at the time of the procuring of the transportation to either themselves debauch the said Agnes Couch, or procure her debauchment by some other person, or to induce, entice, or compel the said Agnes Couch to give herself up to debauchery, then the jury must acquit the defendants."

This charge, and the refusal thereof, will be found on page 31 of the transcript.

Certainly the court erred in refusing this charge, as it was simply an instruction to the jury to find the allegations of the indictment true in order to convict.

The eighth assignment of error is the court erred in charging the jury as follows, to-wit:

"The court instructs you that before you can find the defendants or either of them guilty under the indictment in this case, you must be satisfied beyond a reasonable doubt from the evidence that the defendants, or one of them, procured, or aided in the procuring of transportation for Agnes Couch from Atlanta, Georgia, to Tampa, Florida, and at the time of the procuring or aiding in the procuring of said transportation the defendants both or one of them, had the intent at the time to employ said Agnes Couch in a position and put her under conditions which would induce or incite her to be led into a condition of debauchery that would tend to immoral sexual intercourse."

This charge of the court will be found in the bill of exceptions on page 31.

The judge, in giving this charge to the jury, went far beyond the charge in the indictment and the act of Congress. The act under consideration did not prohibit the transportation of a person in interstate commerce for the purpose of placing her in a position and putting her under conditions which would induce or incite her to be led into a condition of debauchery, or that would tend to immoral sexual intercourse. The act of Congress defines, and the indictment charged in each of its counts, that the defendants either transported or aided in the transportation of the girl for the purpose of debauching her, or causing her to be debauched, or entering into a state of debauchery. It is clear that the court in its charge went far beyond the offense defined by the act of Congress.

The ninth assignment of error is that the court erred in

charging the jury as follows:

"Now, gentlemen, the Congress of the United States has provided that any person who shall transport or cause to be transported or aid or assist to obtain transportation in interstate commerce (which means from one State to another) of any woman or girl for the purpose of debauchery, shall be guilty of a felony, and upon conviction shall be punished in accordance with law. Unquestionably this act although it originated for the purpose of protecting these poor unfortunate women, who, by accident or otherwise had placed themselves under the control of unscrupulous persons, yet the language of the law is direct and positive in its terms and meaning, and should be construed to do everything that the United States Congress has a legal right to do and has used language with the intention to prevent and break up vice and immorality."

This instruction of the court will be found on page 31 of the record.

The court in giving this charge to the jury in substance told the jury that the act of Congress should be construed to do everything that the United States Congress has a legal right to do, and has used language with the intention to prevent and break up vice and immorality. Certainly the act of Congress did not do anything of the kind. The act of Congress was made solely to prevent the transportation of

women with the intent of their engaging in either prostitution or debauchery, or other immoral purposes, and the other immoral purposes certainly could not be extended to include anything beyond debauchery and prostitution or, in other words, sexual vice. There was no intent on the part of Congress in this case to prohibit the transportation of women who engaged in any other vice or immorality other than that applicable to sexual relations.

See preceding discussion generally of the act of Congress under discussion.

The tenth assignment of error is that the court erred in charging the jury as follows, to wit:

"It has been proven and admitted that Agnes Couch came to Tampa at the procurement of the defendants who furnished her transportation by furnishing tickets for that purpose. The only remaining question is whether Agnes Couch was brought here for the purpose of debauchery; that is the vital point in this case; and in determining it you will examine carefully all of the testimony in connection with the procuring of her coming. It is to a certain extent a case of circumstantial evidence; not positive and direct, but circumstantial, to be determined by all of the circumstances surrounding it. And you will examine in determining this question the position into which she was brought, the condition in which she found herself when she came, and the necessary result of such conditions; and determine from all of the testimony what was the purpose of bringing her here, whether or not it was to entice or induce her to give herself up to a life of debauchery."

Which charge will be found on page 32 of the record.

The court in substance instructed the jury in this charge that if the jury found that the position in which the girl found herself when she reached Tampa was such that the necessary result of such conditions was that the purpose of bringing her here was to entice or induce her to give herself up to a life of debauchery, then in that event the defendants

should be convicted. In this charge the court clearly went beyond the purview of the act, as the act in no way defines the position that the female shall be placed in when transported, but requires that at the time transportation is procured or undertaken the intent shall exist in the mind of the person indicted to either debauch or induce or incite the woman to become debauched, or engage in prostitution, and this was also the charge in the indictment.

The eleventh assignment of error is that the court erred

in charging the jury as follows, to-wit:

"The intent and purpose of the defendants at the time of the furnishing of this transportation for Agnes Couch is the very gist and question in this case. Did they intend to induce or entice or influence her to give herself up to debauchery? It makes no difference whether the profits which would be made by the defendants came from the sale of liquor or other immoral purpose. The question here is of intent; what was the intent with which they brought her; that she should live an honest, moral and proper life? or that she came and they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery or leads to or would necessarily and naturally lead her to a condition of debauchery just referred to."

Which charge is found on page 32 of the transcript of the record.

The court in substance charged the jury in this instruction that the question for them to determine was whether the defendants brought the girl or procured her to be brought to Tampa in order that she might live an honest, moral, and proper life, or that she came, and that they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery, or tend to or would necessarily and naturally lead her to the condition of debauchery just referred to. Certainly the act of Congress did not do anything to punish such act as de-

fined by the court above. In order to convict the defendants it was essential for the Government to prove that at the time the defendants procured or aided in the procuring of the transportation of this girl they intended to either debauch her themselves or to incite or induce her to enter into a life of debauchery.

From reading the testimony in this case (see Record, page 29, of testimony of Athanasaw, and also Record, page 23, the testimony of Agnes Couch, and Record, page 25, testimony of Sam Massell) it will be seen that the defendants operated in Tampa a variety theater, in which liquor was sold in the boxes of the theater, and that the women acting in the theater sold the liquor. Under the charge of the court, if the facts were found to be simply that the defendants operated such a theater, and that the women sold liquor therein, and that there never was or had been any act of sexual immorality committed in the building, or intent on the part of the defendants that the women or girls should engage in any act of immorality sexually, the jury in this case would still have been warranted in finding the defendants guilty, and such conviction is clearly in violation of both the law itself and the charge in the indictment.

The twelfth assignment of error is that the court erred in

charging the jury as follows, to-wit:

"The term debauchery is not a legal or technical There is no allegation that the defendants brought her here with the purpose or with the intent to debauch her; but to induce her or entice her, or influence her to enter upon a course of debauchery. The term debauchery is not a legal or technical term. To debauch is to corrupt in morals or principles; to lead astray morally into dishonest and vicious practices; to corrupt; to lead into unchastity; to debauch. Debauchery then, is an excessive indulgence of the body; licentiousness, drunkenness, corruption of in-nocence, taking up vicious habits. The term debauchery, as used in this statute, has an idea of sexual immorality; that is, it has the idea of a life which

will lead eventually or tends to lead to sexual immorality; not necessarily drunkenness or immorality, but here it leads to the question in this case as to whether or not the influences in which this girl was surrounced by the employment which they called her to did or did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily and naturally would lead to a course of immorality sexually. That is the question for you to determine, and it is a question that you alone can determine. You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was You have examined by the testimony and your observation what was the character and what was the condition or influence in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman."

This charge will be found in the record on page 32.

We do not see how it is possible for the court to have used the language that he used in this instruction. He in effect told the jury that the word "debauchery," as used in the act of Congress and as used in the indictment, had no meaning known to the law, but was subject to any meaning that the jury or the court saw fit to place thereon. In defining the meaning of the words "to debauch" the court clearly went in the face of every legal definition of the term that we have been able to find.

(See the definitions given by the various law dictionaries hereinbefore referred to.)

Under the court's definition of the word "debauch" if one should bring a girl over interstate commerce for the purpose of teaching her to steal he would thereby cause her to be debauched; or if he brought her into the State to engage in, as the court said in express terms, in any immoral, dishonest or vicious habits he would be guilty of bringing her for the purpose of debauchery.

Again the court told the jury in the same charge that the term "debauchery," as used in this statute, has an idea of sexual immorality; that is, it has the idea of life which will lead eventually or tends to lead to sexual immorality. Clearly the learned judge misconceived the purpose of the act of Congress, and misconstrued the meaning of the English language used in said act.

The thirteenth assignment of error is that the court erred in charging the jury as follows, to-wit:

"Now, it is contended that they must have had a deliberate intent to debauch her when she came here; that either one or the other intended to debauch her or to get somebody else to debauch her. Now, that term debauch is used in a great many instances in law, and the usual connection is to have carnal intercourse with; but there is no such language in this statute, nor is it the language of the indictment. The charge of the indictment in substance is that they induced or influenced her to enter into a life or condition of debauchery—"to induce or compel her to give herself up to debauchery."

This instruction will be found on page 33 of the record.

We cannot conceive how it was possible for the court to have given this instruction in the light of the act of Congress under consideration, and the terms used in the indictment. The act of Congress punished a person transporting a girl or woman in interstate commerce for the purpose of prostitution or debauchery, or with the intent and purpose to induce, entice or compel the woman to become a prostitute or to give herself up to debauchery, and the charge in the indictment was that the intent was to induce or entice the girl to give herself up to debauchery, and yet the learned court below charged the jury in these words:

"Now that term debauch is used in a great many instances in law, and the usual connection is to have carnal intercourse with; but there is no such language in this statute, nor is it the language of the indictment."

Clearly this court can see from the charges above set out and complained of that the jury were not instructed to try the defendants for the charge with which they stood indicted, or for any act punishable by the law of Congress, but were under the instructions of the court tried by the jury for doing things foreign to both the indictment and the act of Congress. It cannot be contended with any reason whatever that the word "debauch," used in the act and used in the indictment, was intended to cover any other vice save sexual immorality.

In concluding the argument upon the subject of these instructions we desire again to call the court's attention to the fact that the only prohibition of the act of Congress set up in the indictment was debauchery; that there was no charge that the defendants had transported the girl for any other

immoral purpose than that of debauchery.

For the various reasons above stated we contend that this case must be reversed.

First, because the act of Congress is unconstitutional.

(a) For the reason that it violates section 2 of article IV of the Constitution.

(b) Because the power to legislate, as undertaken in said act, is not conferred by the commerce clause of the Constitution of the United States.

(c) Because said act violates amendments to articles IX

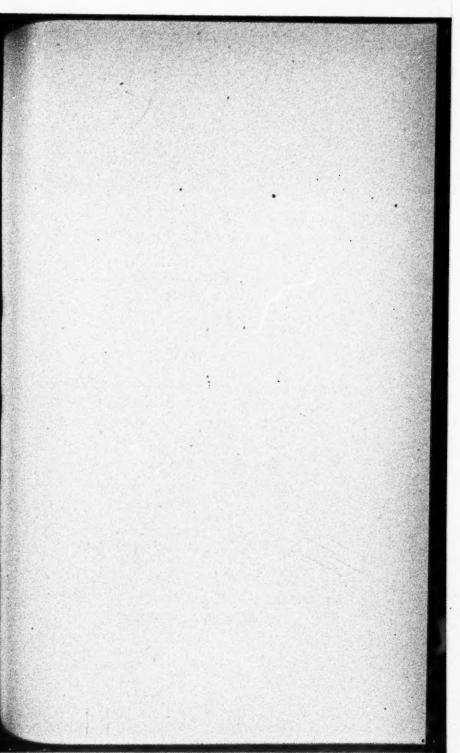
and X to the Constitution of the United States.

(d) Because the court erred in the instructions given to the jury, and in the instructions requested by the defendants, and not given by the court.

All of which is respectfully submitted.

wabare

W. A. CARTER,
Of Counsel for Plaintiffs in Error.



# (23, 143)

# SUPREME COURT OF THE UNITED STATES.

No. 602.

EMMA HARRIS, ALIAS EMMA R. SMITH, AND BESSIE GREEN, PLAINTIFFS IN ERROR AND PETITIONERS,

178.

#### THE UNITED STATES OF AMERICA.

IN ERROR TO AND ON WRIT OF CERTIORARI TO THE UNITED STATES
CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

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#### No. 2177.

United States Circuit Court of Appeals, Sixth Circuit.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Plaintiffs, in Error,

UNITED STATES OF AMERICA, Defendant in Error.

Error to the District Court of the United States for the Southern District of Ohio.

#### Record.

Original Transcript Filed April 21, 1911.

Transcript of Record.

THE UNITED STATES OF AMERICA, Southern District of Ohio, Western Division, ss:

In the District Court of the United States within and for the District and Division Aforesaid.

Present, the Honorable Howard C. Hollister, Judge.

Among the Proceedings had were the following, to-wit:

No. 798.

THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

# Indictment.

Be it remembered that on the ninth day of February, in the year of our Lord one thousand nine hundred and eleven, came the Grand Jurors of the United States within and for the District and Division aforesaid, and presented to the Court their certain Bill of Indictment against the defendants herein, which said Bill of Indictment is clothed in the words and figures following, to-wit:

#### Indictment.

THE UNITED STATES OF AMERICA,
Western Division of the Southern District of Ohio, 85:

In the District Court of the United States within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the Term of February, in the Year of Our Lord One Thousand Nine Hundred and Eleven.

1st Count. Sec. 2,—Act of June 25, 1910, 36 Stat., 825; "White

Slave Traffic Act."

The Grand Jurors of the United States of America, duly empaneled, sworn and charged to inquire within and for the Western Division of said district, upon their oaths and affirmations, present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to-wit, the eighth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly cause to be transported, and did and assist in obtaining transportation for and in transporting in interstate commerce, to-wit, from the City of Charleston, in the State of West Virginia, to and into the City of Cincinnati, in the County of Hamilton and State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court,

two certain women, to-wit, Nellie Stover and Stella Larkins, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said Nellie Stover and Stella Larkins, would and should in said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2nd Count. Sec. 2,-Act of June 25, 1910, 36 Stat. 825; "White-

Slave Traffic Act."

And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to-wit, the eighth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained, at the City of Charleston, in the State of West Virginia, two certain railroad passenger tickets from the Chesapeake & Ohio Railway Company, then and there a common carrier of passengers, engaged in interstate commerce, each of which said tickets was good for transportation

for one person from said City of Charleston, West Virginia, to the City of Cincinnati, in the State of Ohio, upon and over the line and railroad route of the said Railway Company,-with the purpose and intention that said tickets should be used by two certain women, to-wit, Nellie Sover and Stella Larkins, in interstate commerce, to-wit, in going from said City of Charleston, in the State of West Virginia, to said City of Cincinnati, in said State of Ohio, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to-wit, Nellie Stover and Stella Larkins, would and should, in said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain,—whereby, and with the means and by the use of the said tickets, said Nellie Stover and Stella Larkins were then and there and thereupon carried and transported as passengers in interstate commerce.

over and upon the railway route and line of said railway company, to-wit, from said City of Charleston, in the State of West Virginia, to and into said City of Cincinnati, in the State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

3rd Count. Sec. 3,-Act of June 25, 1910, 36 Stat. 825; "White-

slave Traffic Act."

And the Grand Jurors aforesaid, upon their oaths and Affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to-wit, the eighth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded, ininduced and enticed, two certain women, to-wit Nellie Stover and Stella Larkins, to go from one place, to-wit, the City of Charleston, in the State of West Virginia, to another place, to-wit, the City of Cincinnati, in the State of Ohio, within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to-wit Nellie Stover and Stella Larkins, would and should in the said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, with the consent of the said Nellie Stover and Stella Larkins; and did then and there and thereby knowingly cause and aid and assist in causing said women, to-wit, Nellie Stover and Stella Larkins, to go and be carried and transported in interstate commerce, as passengers, upon

and over the railway route and line of the Chesapeake & Ohio Railway Company, a common carrier engaged in interstate commerce, towit, from the said City of Charleston, in the State of West Virginia, to and into the said City of Cincinnati, in the State of Ohio, for the purpose aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SHERMAN T. McPHERSON, United States Attorney in and for the Southern District of Ohio.

4 The following endorsment appears on the back of said Indictment:
A true bill. Wm. H. Davis. Foreman.

Entry. 10-312.

And afterwards, to-wit: on the 10th day of February, A. D. 1911, an Entry was made upon the Journal of said Court in said cause which said Entry is clothed in the words and figures following, to-wit:

No. 798.

THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, etc.

This day came the District Attorney on behalf of the United States and the said defendants, Emma Harris, alias, Emma R. Smith and Bessie Green, being present in Court pursuant to the tenor of their recognizance as given before the United States Commissioner for appearance on this date. And on motion of the United States Attorney it is ordered that the said defendants, Emma Harris, alias, Emma R. Smith and Bessie Green, enter into a recognizance before this Court in the sum of Three Thousand — (\$3,000.00) each, for their appearance before this Court on the 15th day of February and from day to day thereafter.

# Recognizance.

And afterwards, to-wit: on the same day, the following Recognizance was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA, Southern District of Ohio, 88:

Be it remembered, That on the 10th day of February, A. D. 1911, before me, B. E. Dilley, Clerk of the United States District Court, within and for the District aforesaid, duly appointed as such by the said Court personally came Bessie Green as principal and Charles

Albert and Clifford B. Reeves as sureties and jointly and severally acknowledged themselves to owe the United States of America in the sum of Three Thousand (\$3,000.00) Dollars, to be levied on their goods and chattels, lands and tenements, if default be made in the condition following, to-wit:

The condition of this Recognizance is such, that if the said Bessie Green shall personally appear before the District Court of the United States, in and for the District aforesaid, at Cincinnati, Ohio,

on February 15, 1911, and from day to day thereafter as may be required and then and there to answer unto an indictment pending therein for violation of Secs. 2-3 Act of June 25-1910 (36 Stat. 825) and then and there abide the further order of said Court, and not depart without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

BESSIE GREEN. [SEAL.] CHAS. ALBERT. [SEAL.] CLIFFORD B. REEVES. [SEAL.]

Taken and acknowledged before me on the day and year first above written.

[SEAL.] B. E. DILLEY,

Clerk U. S. District Court, Southern District of Ohio, By HARRY F. RABE, Deputy.

United States of America, Southern District of Ohio, 88:

I, Charles Albert one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Six Thousand (\$6000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CHARLES ALBERT.

Sworn to before me the 10th day of February, 1911.

[SEAL.]

HARRY F. RABE,

Deputy Clerk, U. S. Circuit Court, S. D. O. .

SOUTHERN DISTRICT OF OHIO, 88:

I, Clifford B. Reeves, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Twenty-five thousand (\$25,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CLIFFORD B. REEVES.

Sword to before me the 10th day of February, 1911.

[SEAL.]

HARRY F. RABE,
Deputy Clerk, U. S. Circuit Court, S. D. O.

#### Recognizance.

And afterwards, to-wit: on the same day, the following Recognizance was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA, Southern District of Ohio, 88:

Be it remembered, That on this 10th day of February A. D. 1911, before me, B. E. Dilley, Clerk of the United States District Court, within and for the District aforesaid, duly appointed as such by the said Court personally came Emma Harris, alias Emma

R. Smith as principal and Charles Albert and Clifford B. Reeves as sureties, and jointly and severally acknowledged themselves to owe the United States of America in the sum of Three Thousand (\$3000.00) Dollars, to be levied on their goods and chattels, lands and tenements, if default be made in the condition fol-

lowing, to-wit:

The condition of this recognizance is such that if the said Emma Harris, alias Emma R. Smith shall personally appear before the District Court of the United States, in and for the District aforesaid, at Cincinnati, Ohio, on February 15, 1911, and from day to day thereafter as may be required and then and there to answer unto an indictment pending therein for violation of Secs. 2-3 of Act of June 25, 1910, (36 Stat. 825) and then and there abide the further order of said Court, and not depart without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

EMMA SMITH. [SEAL.] CHAS. ALBERT. [SEAL.] CLIFFORD B. REEVES. [SEAL.]

Taken and acknowledged before me on the day and year first above written.

[SEAL]

B. E. DILLEY,

Clerk U. S. District Court, Southern District of Ohio,

By HARRY F. RABE, Deputy.

United States of America, Southern District of Ohio, 88:

I, Charles Albert, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Six Thousand (\$6000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CHAS. ALBERT.

Sworn to before me the 10th day of February, 1911.

[BEAL.]

HARRY F. RABE,

Deputy Clerk, U. S. District Court, S. D. O.

#### SOUTHERN DISTRICT OF OHIO, 88:

7

I, Clifford B. Reeves, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Twenty-five Thousand (\$25,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

#### CLIFFORD B. REEVES.

Sworn to before me the 10 day of February, 1911.

[SEAL.] HARRY F. RABE,
Deputy Clerk, U. S. District Court, S. D. O.

# Motion to Quash.

And afterwards, to-wit: on the 17th day of February, A. D. 1911, the following Motion to Quash was filed in the Clerk's Office of said Court, Clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

#### No. 798.

THE UNITED STATES OF AMERICA, Complainant,
vs.
EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Defendants.

# Motion to Quash.

Now comes the said Emma Harris, alias Emma R. Smith, and Bessie Green, and move the Court to quash the indictment herein, by reason of certain defects apparent upon the face of the record, in this, to wit:

First. Defects in the form of the Indictment.

Second. Defects in the manner in which the offenses are charged in the different counts of the indictment.

Third. Because the intent charged against the defendants in each of the counts of the Indictment is not a criminal intent.

# WILLIAM LITTLEFORD, Attorneys for Defendants.

# Entry, 10-322.

And afterwards, to-wit: on the same day, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit: United States District Court, Southern District of Ohio, Western Division.

No. 798.

THE UNITED STATES OF AMERICA, Complainant,

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Defendants.

Entry Overruling Motion to Quash.

And now this cause coming on for hearing on the motion of the defendants to quash the said indictment, the Court being fully advised in the premises, overrules the same.

To all of which the defendants herein except.

#### Demurrer.

And afterwards, to-wit: on the same day, came the defendants by their Attorney and filed in the Clerk's Office of said Court, a certain demurrer in this cause, which said Demurrer is clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

No. 798.

THE UNITED STATES OF AMERICA, Complainant,

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Defendants.

#### Demurrer.

The said defendants demur to the indictment herein and each of the counts thereof for the reason that the facts stated therein do not constitute any offense punishable by the laws of the United States.

WILLIAM LITTLEFORD,
Attorneys for Defendants.

# Order, 10-322.

And afterwards, to-wit: on the same day an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 798.

# United States of America, Plaintiff, vs. Emma Harris and Bessie Green, Defendants.

# Entry Overruling Demurrer.

This day this cause came on for hearing upon the demurrer of the defendants Emma Harris, alias Emma R. Smith, and Bessie Green to the indictment heretofore found herein; and was argued by counsel and submitted to the Court, and upon consideration the Court finds that the demurrer is not well taken, and the Court does overrule the same, to which finding and overruling the said defendants at the time excepted.

# Entry, 10-320.

And afterwards, to-wit: on the same day an Entry was made upon the Journal of said Court in said cause, which said Entry is clothed in the words and figures following, to-wit:

#### No. 798.

# THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, etc.

This day this cause again came on to be heard, and came the defendants, Emma Harris, alias Emma R. Smith, and Bessie Green, pursuant to the tenor of their recognizance heretofore given herein, and by their Attorneys, and came the District Attorney on behalf of the United States, and having been

arraigned at the bar of this Court and said Indictment read to them for plea say they are not guilty in manner and form as charged in said indictment, and for trial put themselves upon the Country, and

the District Attorney doth the like:

Whereupon to try the issues joined a jury being called came towit: Enos Conrad, W. B. Eppert, Monte Coffin, J. P. Frederick, John C. Williamson, L. D. Elliott, William G. McIntyre, Robert T. Skinner, G. W. Waxler, John Duis, Harry N. Dickensheets, and Henry W. Suemening, who were duly empaneled and sworn herein well and truly to try the issues joined; and having heard the testimony, the arguments of Counsel and the charge of the Court, the jury retired to their room attended by an officer of this Court to deliberate upon a verdict; and after due deliberation the said jury returned the following verdict, to-wit:

We, the jury herein do find the defendant Emma Harris, alias Emma R. Smith, guilty in manner and form as charged in the Counts of said Indictment: We further find the defendant Bessie

Green guilty in manner and form as charged in the Counts of said Indictment.

(Signed)

ENOS CONRAD, Foreman.

To all of which the said defendants by their attorneys except and

give notice of a motion for a new trial.

Thereupon the District Attorney moving for sentence the Court pronounced the following sentence, to-wit: That the said defendant Emma Harris, alias Emma R. Smith, be confined in the United States Penitentiary at Leavenworth, Kansas, for a period of four years, and that she pay the costs of prosecution; That the said defendant Bessie Green, be confined in the Penitentiary at Leavenworth, Kansas, for a period of one year and that she pay the costs of prosecution.

## Entry, 10-322.

And afterwards, to-wit: on the same day, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 798.

## THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and Bessie Green.

This day came the United States Attorney on behalf of the United States, and said defendants, Emma Harris and Bessie 10 Green being present in Court in custody of the Marshal, and said defendants having been sentenced by the Court Emma Harris to be confined in the penitentiary at Fort Leavenworth, Kansas, for a period of four (4) years, and Bessie Green having been sentenced by the Court to be confined in the penitentiary at Fort Leavenworth, Kansas, for a period of one (1) year, the costs of prosecution in each case to be taxed on the defendants, who stand committed until said costs are paid, and defendants having made application to this Court to be released upon bond pending the hearing of the motions to set aside the verdict of the jury and for a new trial and until the filing of the writ of error to the Circuit Court of Appeals for the Sixth Circuit in the event that this Court should overrule said motions for a new trial and to set aside the verdict.

It is hereby ordered by the Court that defendants each be released upon entering into a bond of Three Thousand Dollars (\$3,000.00) each, with good and sufficient sureties to be approved by the Clerk of the Court, said bond to run until the first day of April, 1911, and from day to day thereafter as the Court may order to enable counsel to prepare and to file a petition for writ of error and assignment of error to the United States Circuit Court of Appeals for the Sixth Judicial Circuit in the event that said motions for new

trial be overruled.

## Recognizance.

And afterwards, to-wit: on the same day the following Recognizance was filed in the Clerk's Office of said Court clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,
Southern District of Ohio, se:

Be it Remembered, That on this 17th day of February, A. D. 1911, before me, B. E. Dilley, Clerk of the United States District Court, within and for the district aforesaid, duly appointed as such by the said Court personally came Emma Harris, alias Emma R. Smith as principal and Clifford B. Reeves, Charles Albert as sureties, and jointly and severally acknowledged themselves to owe the United States of America in the sum of Three Thousand and no-100 (\$3,000) Dollars, to be levied on their goods and chattels, lands and tenements, if default be made in the condition following, to-wit: The condition of this recognizance is such, that if the said Emma Harris, alias Emma R. Smith shall personally appear before the District Court of the United States, in and for the District aforesaid, at Cincinnati, Ohio, on April 1st, 1911, and from day to day

thereafter as the Court may order, to enable counsel to prepare and to file a petition for a writ of error and assignment

of error to the United States Circuit Court of Appeals for the Sixth Judicial Circuit, in the event that the motion for new trial in this case be overruled, said Defendant having been found guilty by the Jury and sentenced by the Court to be confined in the United States Penitentiary at Leavenworth, Kansas, for a period of Four years (4) and to pay the costs of prosecution, in case No. 798, entitled The United States of America vs. Emma Harris, alias Emma R. Smith, and Bessie Green, and then and there abide the further order of said Court, and not depart without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

MIS. EMMA R. SMITH.
CLIFFORD B. REEVES.
CHAS. ALBERT.

[SEAL.]
[SEAL.]

Taken and acknowledged before me on the day and year first above written.

B. E. DILLEY.

Clerk U. S. District Court, Southern District of Ohio,

By HARRY F. RABE, Deputy.

United States of America, Southern District of Ohio, se:

I, Clifford B. Reeves, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Twenty-five Thousand and no-100 Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CLIFFORD B. REEVES.

Sworn to before me the 17th day of February, 1911. .

[SEAL.]

HARRY F. RABE,

Deputy Clerk U. S. District Court. S. D. O.

SOUTHERN DISTRICT OF OHIO, 80:

I, Charles Albert one of the sureties above named do solemnly swear that after paying my just debts and liabilities, I am worth Fifty Thousand (\$50,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CHAS. ALBERT.

Sworn to before me the 17 day of Feb'y, 1911.

[SEAL.]

HARRY F. RABE,

Deputy Clerk U. S. District Court, S. D. O.

# Recognisance.

And afterwards, to-wit: on the same day, the following Recognizance was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

12 THE UNITED STATES OF AMERICA, Southern District of Ohio, sa:

Be it remembered, That on this 17th day of February, A. D. 1911, before me, B. E. Dilley, Clerk of the United States District Court, within and for the District aforesaid, duly appointed as such by the said Court personally came Bessie Green as principal and Clifford B. Reeves and Charles Albert as sureties, and jointly and severally acknowledged themselves to owe the United States of America in the sum of Three Thousand and no-100 (\$3,000) Dollars, to be levied on their goods and chattels, lands and tenements, if default be made

in the condition following, to-wit:

The condition of this Recognizance is such, that if the said Bessie Green shall personally appear before the District Court of the United States, in and for the District aforesaid, at Cincinnati, Ohio, on April 1st, 1911, and from day to day thereafter as the Court may order to enable counsel to prepare and to file a petition for a writ of error and assignment of error to the United States Circuit Court of Appeals for the Sixth Judicial Circuit, in the event that the motion for new trial in this case be overruled, said Defendant having been found guilty by the Jury and sentenced by the Court to be confined in the United States Penitentiary at Leavenworth, Kansas, for a period of One Year (1) and to pay the costs of prosecution, in case No. 798, entitled The United States of America vs. Emma Harris, alias Emma R. Smith, and Bessie Green, and then and there abide the further order of said Court, and not depart without leave thereof. then this recognizance to be void; otherwise to remain in full force and virtue.

BESSIE GREEN. CLIFFORD B. REEVES. CHAS. ALBERT. Taken and acknowledged before me on the day and year first above written.

B. E. DILLEY,

Clerk U. S. District Court, Southern District of Ohio,

By HARRY F. RABE,

Deputy.

United States of America, Southern District of Ohio, 88:

I, Clifford B. Reeves, one of the sureties above named, do hereby solemnly swear that after paying my just debts and liabilities, I am worth Twenty-five thousand and no-100 Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CLIFFORD B. REEVES.

Sworn to before me the 17th day of February, 1911.

HARRY F. RABE,

Deputy Clerk U. S. District Court, S. D. O.

SOUTHERN DISTRICT OF OHIO, 88:

I, Charles Albert one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Fifty Thousand (\$50,000,00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

CHAS, ALBERT.

Sworn to before me the 17 day of February, 1911.

HARRY F. RABE,

Deputy Clerk U. S. Circuit Court, S. D. O.

# Motion for New Trial.

And afterwards: to-wit: on the 18th day of February, A. D. 1911, came the defendants by their Attorneys and filed in the Clerk's Office of said Court, a certain Motion for new trial in this cause, which said Motion for new trial is clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

#### No. 798.

UNITED STATES OF AMERICA, Plaintiff,

EMMA HARRIS, alias EMMA R. SMITH, and Bessie Green, Defendants.

# Motion for New Trial.

Now come the defendants and by their attorneys move for a new trial in the above cause for the following reasons, to-wit:

First. The verdict is not sustained by the weight of the evidence and the law.

Second. The Court erred in rejecting evidence offered by the defendants and to which rejection the defendants at the time excepted.

Third. The Court erred in admitting evidence offered by the plaintiff over the objection of the defendants and to which admission defendants at the time excepted.

Fourth. The Court erred in charging the Jury.

LITTLEFORD, JAMES, FROST & FOSTER, Attorneys for Defendants.

# Motion in Arrest of Judgment.

And afterwards, to-wit: on the 21st day of February, A. D. 1911.

came the defendants by their Attorney and filed in the
14 Clerk's Office of the Court aforesaid, a certain Motion in
Arrest of Judgment, clothed in the words and figures following, to-wit:

Motion in Arrest of Judgment.

United States District Court, Southern District of Ohio.

UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

And now come the defendants and move the Court to arrest judgment on each and every count in the indictment herein upon which the defendants were convicted, because the facts therein stated do not constitute an offense against the laws and statutes of the United States.

WM. LITTLEFORD, Attorney for Defendants.

# Entry, 10-329.

And afterwards, to-wit: on the 28th day of February, A. D. 1911, an Entry was made upon the Journal of said Court in said cause, which said Entry is clothed in the words and figures following, to-wit:

# THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

# Entry.

Upon application of the United States Attorney, and the Court being informed that the U. S. Penitentiary at Leavenworth, Kansas, is not a convenient nor proper place of imprisonment for female

prisoners, and that the Attorney General of the United States has designated the Kansas State Penitentiary at Lansing, Kansas, as the

place of imprisonment of the defendants herein;

It is Therefore Ordered, That the former entry of sentence in this case be so modified as to make the said Kansas State Penitentiary, at Lansing, Kansas, the place of imprisonment of said defendants, Emma Harris, alias Emma R. Smith, and Bessie Green; and that in all other respects said entry of sentence shall remain the same.

## Entry, 3-334.

And afterwards, to-wit: on the 11th day of March, A. D. 1911. an entry was made upon the Journal of said Court in said cause, which said Entry is clothed in the words and figures following, to-wit:

#### No. 798.

#### THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

Upon application of the defendants and for good cause shown leave is hereby granted to them to file their Supplemental Motion in arrest of judgment and the same is filed forthwith.

# Supplemental Motion in Arrest of Judgment.

And afterwards, to-wit: on the same day, came the defendants by their Attorney and filed in the Clerk's Office of the Court aforesaid, a certain Supplemental Motion in this cause, which said Supplemental Motion is clothed in the words and figures following, to-wit:

# Supplemental Motion in Arrest of Judgment.

United States District Court, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, Plaintiff,

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN,
Defendants.

Now comes the defendants, by leave of Court first had and obtained and file this their supplemental motion in arrest of judgment in this cause, for the following reason, that the Statutes which the defendants are charged with violating are unconstitutional.

MAX LEVY, Attorney for Defendants.

# Entry, 10-334.

And afterwards, to-wit: on the same day, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following to-wit:

Entry Overruling Motion in Arrest of Judgment and Supplemental Motion in Arrest of Judgment.

No. 798.

THE UNITED STATES OF AMERICA, Plaintiff,

EMMA R. HARRIS, alias EMMA R. SMITH, and BESSIE GREEN,
Defendants.

This cause came on to be heard upon the motion in arrest of judgment and supplemental motion in arrest of judgment, herein filed by the defendants, on the arguments of counsel and the Court being fully advised in the premises, find- that the said motion in arrest of judgment and supplemental motion in arrest of judgment are not well taken, and overrules the same, to which ruling of the Court defendants except.

16 Entry, 10-334.

And afterwards, to-wit: on the 11th day of March, A. D. 1911, an Entry was made upon the Journal of said Court in said cause, which said Entry is clothed in the words and figures following, to-wit:

Entry Overruling Motion for a New Trial.

No. 798.

THE UNITED STATES OF AMERICA, Plaintiff,

EMMA R. HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Defendants.

This cause came on to be heard upon the motion for a new trial herein filed by the defendants, on the arguments of counsel, and the Court being fully advised in the premises, find-that said motion is not well taken, and overrules the same, to which ruling of the Court the defendants except.

# Entry, 10-339.

And afterwards, to-wit: on the 21st day of March, A. D. 1911, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 798.

## THE UNITED STATES OF AMERICA

EMMA R. HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

This day came the defendants, Emma Harris, alias Emma R. Smith, and essie Green, by their attorneys and presented their Bill of Exceptions, and the same being examined and found to be true is hereby allowed, signed, sealed, ordered to be and the same inhereby made part of the record of this cause, and filed as provided by law.

### Bill of Exceptions.

Thereupon came the defendants, by their attorney, and filed in the Clerk's Office of the Court aforesaid, their certain Bill of Exceptions in this cause, which said Bill of Exceptions is clothed in the words and figures following, to-wit:

### Bill of Exceptions.

United States District Court, Southern District of Ohio, Western Division.

### No. 798.

UNITED STATES OF AMERICA, Plaintiff,

VS.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Defendants.

Be it remembered that this cause came on for hearing on Friday morning, February 17, 1911, before Hon. Howard C. Hollister, Judge; the United States of America being represented by Messrs. Sherman T. McPherson and Thos. Darby; the defendants being present in person and represented by Mr. Wm. Littleford.

Thereupon counsel for defendants filed a motion to quash, which motion to quash the court, upon consideration, overruled, to which action of the court the defendants, and each of them, by their counsel, then and there duly excepted.

Said motion to quash is hereto attached and made part hereof. Entry overruling motion to quash is hereto attached and made

part hereof.

Thereupon counsel for defendants filed a demurrer, which demurrer the court, upon consideration, overruled, to which action of the court the defendants, through their counsel, then and there duly excepted.

Said demurrer is hereto attached and made part hereof.

Entry overruling demurrer is hereto attached and made part hereof.

3-602

Thereupon the defendants, through their counsel, moved for a separate trial for the two defendants jointly indicted, for the reason that it does not appear from the indictment that they acted jointly, or as conspirators. That while it may have been that each of them did the acts alleged, but each acted separately.

Mr. McPherson: The indictment charges but one act, and it is

charged that they both did it.

The Court: Three counts.

Mr. McPherson: Three counts and each charges the same thing.

Motion overruled.

Mr. LITTLEFORD: I wanted it to appear that they were acting together.

The Court: It charges that they both did it. It is clearly charged

that they both did it.

Exception noted by counsel for defendants.

Thereupon the defendants were arraigned, and each of them

entered a plea of not guilty.

Thereupon the defendants, through their counsel, moved that the government elect upon which of the three counts of the indictment it will proceed to trial.

Motion overruled; exception noted by counsel for defend-

ants.

Thereupon the talesmen were examined upon their void dire.

Thereupon the jury was sworn.

Thereupon the case was stated to the jury by respective counsel.

Thereupon the United States of America, to maintain the issues on its part, called as a witness, STELLA LARKINS, who being first duly sworn, testified as follows:

### By Mr. McPherson:

Q. Give your full name to the jury?

A. Stella Larkins.

Q. Where do you live?

A. Charleston, West Virginia.

Q. How old are you?

A. 21.

Q. How long have you been living in Charleston, West Virginia?
A. Well, I have been there I guess—well, I don't know, it is about three or four years.

Q. Where were you living in Charleston, West Virginia, in Sep-

tember?

A. I was at 718 Young Street.

Q. What is 718 Young Street in Charleston?

A. It is a sporting house. Q. Were you living there?

A. Well, I was boarding there; yes, sir. Q. How long had you been in that house?

A. I had been in that house a little over a week.

Q. Previous to that where were you?

A. Before that time?

Q. Yes. A. I was at 302 North Rand Street before I went to this place. Q. Was that a sporting house, too?

A. Yes, sir. Q. Are you acquainted with Bessie Green, the defendant over

A. Yes, sir.

there?

Q. Where did you make her acquaintance?

A. In Charleston, W. Virginia.

Q. When? A. I don't know. Q. About when?

A. Well, I can't tell you just exactly when it was, but it was somewhere about the last of September or the first of October.

Q. Where did you meet her then?

A. At 718 Young Street. 19

Q. What time of the day; just tell the jury how you hap-

pened to meet her?

A. Well, I was up town; I had gone out and I had telephoned down to the house; I telephoned down to the house to see-there were some girls went to see some friends—to see if the girls had arrived back; and there was a woman answered the phone, and she said, "there is some one here who wants to see .--," and then I came back to the house and when I arrived I met Miss Bessie Green.

Q. What happened?

A. We talked.
Q. What did you talk about?
A. We talked about coming to Cincinnati, and about Cincinnati if it is a good place to make money.

Q. She said a girl wanted to see you, what did she say to you

when first you met her?

A. I went in and they said this was Bessie Green, and we commenced talking and we talked about coming to Cincinnati.

Q. Just speak about that first: give the jury the conversation, if you remember, who spoke first about it?

A. I don't just exactly remember who was the first one spoke about it.

Q. What was said about coming to Cincinnati?

A. Well, she said if I would come she would pay my bill.

Q. What bill?

A. Well, I owed a bill to the landlady at 718 Young Street.

Q. How much?

A. It was \$30 and something; we had counted it all up.

Q. She said she would pay your bill?

A. Yes, sir.

Q. What agreement did you reach at that time—then did you agree to come?

A. Yes, sir. Q. Now, what time of the day was that?

A. Well, it was along, I don't know just exactly, it was along 5 or somewhere-I don't know.

Q. She left there to go some place else?

A. Yes, sir; she went over to another house, and she said she would be back for supper, and she came back and ate supper there.

Q. What arrangements were made for you to go?

A. I went ahead and packed my trunk and things and we 20 came on to Cincinnati.

Q. After you got your trunk packed, what did Bessie Green do about the payment of your bills that you owed the landlady?

A. She paid \$15 there and she said she would send the rest of it C. O. D.

Q. Where was your trunk to be sent to?

A. To George Street, to Emma Harris's, 410 George Street.

Q. And that arrangement was made while she was there in Charleston, West Virginia?

A. Yes, sir.

Objected to as leading, and motion made to strike out answer; obiection and motion sustained.

Q. State what occurred after you made arrangements to have your trunk sent to Cincinnati?

A. Well I got dressed, it was a little after twelve o'clock and we left there at about one o'clock.

Q. With whom? A. Bessie Green and I.

Q. Where did you go? A. We took a taxicab and went to 308 North Rand Street.

Q. What kind of a place?

A. Sporting house.

Q. Who did you get there?

A. Nellie Stover.

Q. And there what, if anything, occurred? A. Well, she got dressed and went with us. Q. The three of you in the same hack?

A. Yes, sir. Q. Where did you go? A. We went to the depot.

Q. What depot? A. C. & O. depot.

Q. At Charleston, West Virginia?

A. Yes, sir.

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Q. And what occurred there?

A. The train was an hour and something late; the train is supposed to leave there at 2:25, and the train was an hour late and we walked around and went to the restaurant and got lunch and we came back and got our tickets.

Q. Just tell the jury how they were gotten? A. I got the ticket but Bessie Green bought it.

Q. Explain that to the jury just how that was?

A. She gave me the money to get the ticket. Q. And after she gave you the money you bought what? A. The ticket; the ticket was five dollars and five cents.

Q. And that ticket was to where?

A. To Cincinnati, Ohio. Q. Now, do you know anything about the ticket—who bought the ticket for the Stover girl?

A. No, sir; I know nothing about that.

Q. After you got the ticket, what, if anything, did you do when the train came along?

A. We got on the train. Q. And where did you go?

A. Came to Cincinnati.
Q. What time did you get to Cincinnati?

A. It was along ten o'clock.

Q. The next day?

A. No;—yes, sir—the same day.

Q. 10 o'clock a. m.,—in the forenoon? A. Yes, sir.

Q. Now, after you started did you stop anywhere between Charleston until you arrived in Cincinnati, after you got on the train?

Q. Now, you arrived in Cincinnati about 10 o'clock in the morning, and what, if anything, did you do after you arrived here in Cincinnati?

A. We went to Emma Harris's, 410 George Street.

Q. Direct from the depot? A. Yes, sir.

Q. And you got there about noon time?

A. Yes, sir. Q. And when did you first see Emma Harris?

A. Well, Emma Harris she came up to the room and talked to us. Q. What did she say?

A. Well, she said she was glad to see us, I guess.

Objected to; objection sustained.

Q. What did she say?

A. She said it was a good place to make money.

Counsel for defendants objects on the ground that the indictment charges first that these women caused to be transported to Cincinnati these two girls, and secondly, that they procured and obtained tickets to bring them here. Third, that they entired, induced and

persuaded the into come here. If the conspiracy is ended 22 after they had arrived in Cincinnati then that's the end of the story. In other words if the door is open for the conversation of the Harris woman with these girls after they arrived in their room, it is also open for half an hour, or an hour, or a day, or a week, or it is in the discretion of the judge too say when the door is closed.

(Counsel referred to case of Long vs. Lemerick, against the State,

14 Circuit Court, 207.)

Motion was also made by counsel for defendants to strike out.

The Court: Who was present at this time? A. After we arrived to Mrs. Harris'?

Q. Yes, when she said what you say she said who was there in the room?

A. There was Nellie Stover, and Bessie Green, I think she was

there, and myself.

Motion overruled; exception noted by counsel for defendants.

By Mr. McPherson:

Q. What else was said in that conversation?

Same objection; same ruling, exception noted by counsel for defendants.

A. I don't remember just what was said, but we went and ate breakfast then after we arrived. I say after she got through talking we went and ate breakfast and we went on back upstairs and we never seen Mrs. Harris no more.

Q. You mean that day?
A. Until we came downstairs at night for supper.

Q. Were you given rooms in the house, or assigned rooms?

A. Yes, sir; she gave us rooms.

Q. When you came down that night did you see her that night?

A. Mrs. Harris?

Q. Yes.

A. Yes, sir.

Q. What, if anything, did you do that night?

A. Well, we went down stairs.

Q. Speak so the jury can hear you?

A. We went down stairs and went into the parlor. Q. Did you have any callers that night?

A. Yes, sir.

Q. What kind of callers-men?

A. Yes, sir.

23 Q. Did you meet men that night? A. Yes, sir.

Q. And did you go to the rooms with them?

A. Yes, sir; I did.

Q. And what was the charge for meeting men there in that house, for receiving men in that house?

A. What was the charge?
Q. Yes?
A. Well, it was two dollars.
Q. What time did your trunk, do you know, reach you?

A. It arrived there the next day.

Q. How did it come, do you know? A. It came C. O. D. \$15.

Q. By express? A. Yes, sir.

Q. Did you pay that \$15? A. No, sir; I did not.

Q. Who did?

A. Mrs. Emma Harris.

Q. Now, how about after you got there, was there an account kept with you there in that house?

A. Yes, sir.

Objected to; question withdrawn.

Q. Now, what conversation, if any, did you have with Emma Harris about your trunk, and about the car fare that Bessie Green bought your ticket with to bring you from Charleston?

Objected to as incompetent on the ground that the conspiracy was at an end, and Bessie Green was not responsible for what Emma Harris did, or said.

Objection overruled; exception noted by counsel for defendant.

Q. You then started to speak about the conversation you had with Emma Harris?

A. Miss Harris said she would put it down against me on the

book.

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The COURT: You have to talk louder.

A. Miss Harris said she would put it down against me on the book.

By Mr. McPherson:

Q. Did she ever put it down on the book afterwards?

A. Objected to for the same reasons.

A. Yes, sir.

Motion made to strike out the answer for the same reasons. motion overruled; exception noted.

Q. Who was this you are speaking about?

A. Emma Harris.

Q. What did you see in that book?

Objected to because the question calls for secondary evidence of a book account; objection overruled; exception overruled; exception noted by counsel for defendant.

A. Well, it was the railroad fare and the trunk, the money was put down against me.

Q. Which railroad fare do you mean?

Objected to for the same reason; objection overruled; exception noted by counsel for defendants.

A. The railroad fare was something like \$5.05.

Q. How much?

Objected to for the same reason; objection overruled; exception noted by counsel for defendants.

A. \$5.05.

Q. And how much of a debt was put against you?

Objected to for the same reason; objection overruled; exception noted by counsel for defendants,

A. It was \$30 and something I owed at Charleston, and the expressage.

Q. \$30?

Objected to for the same reason; objection overruled; exception noted by counsel for defendants.

A. And \$5.05 railroad fare.

Q. \$30; the expressage and \$5.05 railroad fare?

Objected to for the same reason, same ruling, exception noted.

A. Yes, sir.

Q. So that the second day after you were there you started in with a debt against you of \$38 or \$39?

A. Yes, sir; something along there. Q. Now, the first night that you were there how many men did you stay with that night?

A. No, sir; I don't remember. Q. Were there very many?

A. No, sir.

Q. Was it enough to pay for that debt that was owing by you?

A. No, sir.

- Q. What was your purpose in leaving Charleston? A. What was my purpose in leaving Charleston?
- Q. Yes; what did you intend to do in Cincinnati when you left there?

A. I intended to come into a house.

Q. You intended what?

- A. I knew I was coming into a house when I left Charleston.
- 25 Q. And what house do you know you were going into when you left Charleston?

A. Emma Harris'.

Q. When you say a house, you mean a house of prostitution, do you?

A. Yes, sir.

Q. By the way when the trunk came did you see any tags upon your trunks?

A. Yes, sir.

Q. What were those tags?

A. One tag was marked "C. O. D. \$15.05."

Objected to.

Q. I hand you two Adams Express Company tags, and ask you if you can identify them?

A. Yes, sir, I can identify them.

Q. What are they?
A. They were on my trunk.

Q. And how long did they stay on your trunk?

A. They were on my trunk until I left; one of them I took off and Mr. Watson took the other one off.

Q. This gentleman here? (Pointing to Mr. Watson.)

A. Yes, sir; he took one off, and I took the other one off.

Q. Which one did you take off, do you know?

A. I don't remember which one I took off.

(Cards were here marked by the stenographer, Ex. A and Ex. B, respectively, and the same are hereto attached and made part hereof.

Mr. McPherson: This is "Form 150. Include in address County and State, and in Cities, Street and Number. Adams Express Company."

Objected to by counsel for defendants as hearsay testimony; objection sustained.

Cross-examination.

### By Mr. LITTLEFORD:

Q. What is your real name? A. What is my real name?

Q. Yes.

A. Well, I go by the name of Stella Larkins.

Q. I didn't ask you that; I asked you what is your real name?

A. I don't know that I have got any other name.

Q. You don't know that you have any real name—you have some real name that you were born with, what is that name?

A. That I was born with—well, I don't know exactly—I always

went by the name of Miss Stella Larkins.

Q. I want to know you real name?

The Court: Can you answer?

A. I always went by the name of Stella Larkins ever since I went in bad.

The Court: Answer the question?

A. Well, my name is,—my right name I went by is Estella Bowles.

### By Mr. LITTLEFORD:

Q. Estella what? A. Estella Bowles.

Q. How do you spell it?

A. B-o-w-l-e-s.

Q. You mean that is your father's name?

A. Yes, sir; that is my father's name. Q. And that is your real name?

A. Yes, sir.

Q. And where is your home? A. Charleston, West Virginia. Q. Were you born there?

Q. Were you born there? A. No, sir; I wasn't born there.

Q. Where were you born?

A. I was born in Huntington, West Virginia. Q. Now, do your parents live there now?

A. Do my parents live there now?

Q. Yes.

A. I guess they do; I haven't been at home for quite a while and I guess they are there.

Q. Your father's name is Bowles?

The COURT: She said so.

Mr. LITTLEFORD: She said she went by that name, and I don't know whether she meant it.

Q. Where did you first begin the life that you lead?

A. In Charleston, West Virginia.

Q. Did you go there from Huntington?

A. Yes, sir, I was born in Huntington, but I didn't stay in Huntington all my life.

Q. Where did you go to from Huntington?

A. I don't remember. Q. When did you leave home?

A. When did I leave home; well, I haven't been at my home for quite a while.

Q. Won't you tell us that?

A. I don't remember just when it was that I left home.

Q. Were you 15 or 18 years of age? A. No, sir; I wasn't 15 years of age.

Q. How old were you?

A. I don't remember; I was about 14 I guess.

Q. You were about 14? 27

A. Yes, sir.

Q. Now, where did you go when you were 14?

Objected to.

The COURT: There is a reasonable amount of that which is admissible: I think you have got enough of that. I make the suggestion now. I will not say I will not permit any more of it but there is a limit to it.

### By Mr. LITTLEFORD:

Q. I ask you once more after you left your home when did you begin to be a sporting woman?

A. Well, it was a long while after I left home; I don't remember

exactly how long it was but it was a long while.

Q. How long were you in Charleston leading that life? A. I guess about six months.

Q. Had you been leading it anywhere else?

A. No, sir; I hadn't. Q. Had you been leading it in Charleston?

A. Yes, sir.

Q. How long did you live in Charleston altogether?

A. How long?

Q. Yes.

A. I don't remember; I was there three or four years; I don't remember exactly how long it was.

Q. What else did you do in Charleston?

A. I worked in Charleston.

Q. Before you went to a sporting house?

A. Yes, sir.

Q. Whose house were you at when you met Bessie Green?

A. Mary Brown's house.

Q. How long had you been there?

A. A little over a week.

Q. And where had you been before that?

A. At 302 North Rand Street.

Q. And how long had you been there? A. I don't remember but it wasn't so long.

Q. Well, had you been moving about?

A. No, sir; that is the only place I started from and I was only at that other place a little over a week.

Q. Did you say that you had not been leading a sporting life

in any other city but Charleston?

A. No, sir; I hadn't.

Q. Had you any intention of coming to Cincinnati before you

met this girl?

28 A. My intention was to come to Cincinnati but it wasn't right then: I was coming to Cincinnati later on, but I had no idea of coming right then.

Q. With whom had you talked previously about coming to Cin-

cinnati?

A. Well, now, with no particular person.

Q. But you had made up your mind before you met this girl to come to Cincinnati?

A. Yes, sir: I did.

Q. That was of your own free will that you had reached that conclusion?

A. Yes, sir; it was.
Q. No one had persuaded you to reach that conclusion?

A. No, sir; not at that time.

Q. No one had induced you to reach the conclusion to come to Cincinnati, had they?

A. Not at that time they hadn't.

Q. You came voluntarily; you came of your own free will?

A. She asked me to come.

Q. Well, I say you came of your own free will?

A. I wouldn't have come if she hadn't paid my bill.

Q. You wouldn't have come if she had not paid your bill? A. No, sir; I would-; because I couldn't: I was indebted to the landlady and I couldn't come.

Q. You were making money every night up there, weren't you?

A. Yes, sir; I was making money every night but I spent it. Q. You were making money every night but you spent it?

A. Yes, sir.

Q. You were there in a house and where you were making money and you had the intention to come to Cincinnati, now you lay the blame on this girl that you came to Cincinnati?

A. She asked me to come and she said she would pay my bill.

Q. You were making money of your own?

A. Yes, sir; I was making money of my own but I owed a bill of my own.

Q. You haven't told the jury yet how you came to make up your

mind to come to Cincinnati?

A. I don't know just how I came to make up my mind to come to Cincinnati.

29 Q. Somebody must have talked to you about Cincinnati, or you must have found out something about Cincinnati if you made up your mind of your own accord to come to Cincinnati?

A. Nobody had to talk to me, you can change places without any-

body talking to you.

Q. So you must have made up your mind without anybody talk-

ing to you?

- A. She comes and she calls for me and she said she would pay my bill if I would come to Cincinnati and I came to Cincinnati with
- Q. I am talking before she came to Charleston before you ever saw her?

A. Well, I just said, I thought of coming to Cincinnati, but I

didn't know just exactly what I was going to do.

Q. I am asking you whether you made up your mind to come to Cincinnati before you ever saw this girl? Why you made up your mind to come to Cincinnati before you ever saw this girl?

A. I don't know why I did, but I did.

Q. After you stayed in the Harris house a little while you left?

A. No, sir; I did not. Q. Never left that house?

A. No. sir.

Q. Stayed there all the time?

Yes, sir; stayed there all the time.

Q. How long were you there?

A. About two months and a half, until this trouble occurred.

Q. Who came there to get you out of the house?

Who took me out?

Q. Yes?

A. Mr. Watson took me out.

Q. Who is he?

A. This fellow sitting right here.

Q. And had he come to see you in the house?

He came to see and asking if we were from West Virginia. and all about this and I tried to lie to him to get out of it, and I seen I couldn't and I told the truth about it.

Q. You mean you told some lies about it? A. On the first day to get out of the trouble.

Q. Where did you go with him from that house?

A. To the Place of Detention

Q. And where have you been since then?

30 A. Where have I been since then?

Q. Yes?

A. I have been no place only in the Troy jail.

O. In the Troy jail? A. Yes, sir.

Q. How long have you been in the Troy jail? A. I was put in there on the 20th of December.

Q. Who did you talk to besides the gentlemen sitting here?

A. Who did I talk to besides him? Q. Yes; about your testimony?

A. I don't remember who I talked to.

Q. Did you talk to anybody at the house of detention?

A. No, sir; not as I remember I did.

Q. You admit you told some lies at first, when did you cease to

tell some lies?

A. I seen I had to take the stand, and I told Mr. Watson when he first asked me that I had come to Cincinnati on my own accord, and he said, "don't lie to me," and I went on, and I never said anything more; and he came back in a few days and he took me to the place of detention.

Q. After you told him you wanted to come to Cincinnati of your own accord he said to you not to tell lies to him; now, you did

testify, under oath, at the former trial here, didn't you?

A. I testified, yes, sir.

Q. You were under oath then, weren't you?

A. I testified the truth.

Q. I say you were under oath then, weren't you?

A. I testified the truth. Well, I guess I was.

Q. You testified as follows then, didn't you: "Well, I was out and when I went in I met her." Let me go back a little bit. This is the account before the Commissioner about this matter before, it: "A. I don't know just exactly the date when she came—I don't exactly know the time when she came; it was in the evening. Q. Did she have a conversation with you that evening? A. Well, I was out and when I went in I met her and so we had a talk for a little while."——

A. (Interrupting.) I was up town and I got a telephone message that there was some one there, for me to go home, for some one wanted to see me, and when I came in I saw Bessie Green.

Q. A while ago you said that Bessie Green telephoned for you?

Objected to.

Q. Then somebody else telephoned, Bessie Green didn't, so we all understand you. Now, when you came in you found Bessie Green there?

A. Yes, sir.

Q. (Reading:) "Then I talked with her for a little while, and, of course, I wanted to come to Cincinnati." You so testified, didn't you?

A. Well, I was thinking of coming to Cincinnati, yes, sir.

Q. I don't hear that?

1. Yes, sir.

Q. Then you did want to come to Cincinnati, did you?

The COURT: It is alleged in the indictment she came with her own consent.

Mr. LITTLEFORD: It is not in the indictment that she was persuaded and enticed to come with her own consent.

The COURT: Whether "with" or "without."

### By Mr. LITTLEFORD:

Q. Now, I want to ask you again if you didn't say in your testimony that you wanted to come to Cincinnati-"my intentions were to come to Cincinnati before this and I just fixed and came on."

A. Well, my intention-

Q. I didn't ask you what your intentions were; I ask you whether

you said that, or not?

The Court: The answer to that is, "yes" or "no;" just answer yes, or no. If you do not understand the question it will be put to you again.

A. I don't understand the question.

### By Mr. LITTLEFORD:

Q. I will ask you if before the United States Commissioner, in this building, when your testimony was taken down by Mr. Traub, the gentleman sitting there, you didn't answer as follows: "I don't know just exactly the date when she came—I don't exactly know the time when she came; it was in the evening. Q. Did she have a conversation with you that evening? A. Well I was out and when I went in I met her and so we had a talk for a little while, and of course, I wanted to come to Cincinnati-my intentions were to come to Cincinnati before this and I just fixed and came on." And I ask you whether you did so testify?

A. Yes, sir; I so testified. Q. You didn't?

A. Yes, sir: I did.

Q. Now, I will ask you if you didn't testify upon that 32 same occasion, and I am reading from page 5 as follows: "Q. Where did she say to come to? A. She didn't mention any name, there wasn't any mentioned. Q. Did she mention Emma Harris? A. No." Did you so testify?

A. Yes, sir; I guess I did.

Q. How?

A. Yes, sir; I guese I did.

The COURT: Speak out louder.

A. Yes, sir; I guess I did.

### By Mr. LITTLEFORD:

Q. Now, when you were asked about your tickets, did you testify as follows: "Q. Was Nellie with you at that time? A. Yes, sir. Q. And who bought her ticket for her? A. I don't know; I just bought my own ticket; I don't know who bought it for her. Q. Were you acquainted with Nellie before you came to Cincinnati? A. No, sir; I seen her once or twice. Q. But you weren't friends? A. No. sir." Did you so testify?

A. Yes, sir; I did.

Q. Now, I understood you to say a while ago that you had made

up your mind to come to Cincinnati, but that you had talked to no one before you came to Cincinnati with this girl; I will ask you if you testified: "Didn't you have a colored woman sewing for you by the name of Georgia? A. Yes, sir. Q. Did you ever talk to her about Cincinnati? A. Did I ever talk to her about Cincinnati? A. Yes. A. Why, I never talked to her no further than to say she knew Cincinnati and it was a good town." Did you so testify?

A. Yes, sir; I testified to that.

Q. Now: "Did you express a desire to come to Cincinnati to her? A. Yes, sir; I said my intention was to come to Cincinnati."
You told her that?

A. Yes, sir, I told her that my intentions were to come to Cin-

cinnati, yes, sir.

Q. So that before you ever saw this girl you had talked to the colored woman named Georgia, had made up your mind to come to Cincinnati, and she had talked to you to come to Cincinnati, is that true, or not?

A. Is it true?

Q. Yes, is it true? A. Well, she didn't talk so much about Cincinnati; she said Cincinnati was a nice town, that is about all she said.

Q. Who said so?

A. This colored lady.

33 Q. Now, I will ask you if you ever received any communication from the other defendant, Miss Harris?

A. From her?

Q. Yes.

A. Not before.

Q. I mean while you were up there?

A. While I was in Charleston? Q. Any letters, or anything? A. No, sir; I never.

Q. Didn't you also testify before: "Now, you never got any letter, or any paper, or any kind of a communication from Mrs. Harris? A. No. sir; I never."

Objected to: objection sustained.

Q. Now, again; I will ask you, did you testify as follows: "A. There was the landlady, I guess; I guess the landlady was in there. Q. Did they hear your conversation? A. We didn't talk very much and I told her I was coming to Cincinnati, and I went downstairs with the landlady and she told me not to come. Q. You wanted to come to Cincinnati? A. Yes, sir." You so testified before, didn't you?

A. I so testified before; yes, sir.

Q. So, according to that Bessie Green didn't talk very much to you; did she?

A. She said if I would come she would pay my bill.

Q. Didn't you testify also as follows: "Q. But your intention was before that to go to Cincinnati? A. Yes, sir; my intention was to come to Cincinnati and I was having a dress made in the meantime to come to Cincinnati."

A. Yes, sir; I was having a dress made. Q. So you were having a dress made?

A. Yes, sir; but I wasn't coming to Cincinnati right away before because I had my debt to pay and I couldn't come before it was paid.

Q. I say that was before you saw Bessie Green that you had the dress made to come to Cincinnati?

A. Yes, sir.

Redirect examination.

### By Mr. McPherson:

Q. You also testified before the Commissioner that Bessie Green gave you the \$5.05 to buy the ticket?

Objected to.

A. I bought my own ticket but she gave me the money to buy it. Q. Didn't you testify to that in the court below?

34 A. Yes, sir.

Q. I mean before the Commissioner?

A. Yes, sir; I did.
Q. When you say you came over the C. & O. railroad, what railroad do you mean? Give us the full name of the railroad.

A. Well the C. & O. railroad, that is all I know.

Q. What does the C. & O. stand for?

(No answer. Question withdrawn.)

By the COURT:

Q. You say you were in that house in West Virginia before you came here for about a week?

A. A week it was; and I was in that house on Young street.

Q. You owed that landlady \$30?

A. Yes, sir.

Q. Did that accumulate in that time?

A. What time I was over there?

Q. Yes.

A. Yes, sir.

And also Nellie Stover, who being first duly sworn, testified on behalf of the United States of America as follows:

Direct examination.

### By Mr. McPherson:

Q. Give your full name to the Court and jury?

A. Nellie Stover.

Q. How old are you Miss Stover?A. 21.

Q. And where is your home?

A. In West Virginia.

A JUROR: Miss Stover, please speak out louder.

### By Mr. McPherson:

Q. You have been sick for some time? A. Yes sir.

Q. Where were you living the last of September or the first of October, 1910?

A. I was living at-what is it now.

Q. What city before you came to Cincinnati—Where were you?

A. I was living at Anna Parker's, 308 North Rand street.

Q. Charleston, West Virginia?

A. Yes, sir.

Q. And what kind of a place is that?

A. It is a sporting house.

- Q. Were you there as a boarder, and inmate? A. Yes, sir. 35
  - Q. How long had you been in that sporting house? A. Since about the 19th of last July-July, 1910.

Q. Did you ever see the defendant here, Bessie Green?

A. Yes, sir; I seen her. Q. When was the first time you seen her and where?

A. In Charleston, West Virginia, was the first I seen her, at Parker's,

Q. How did you happen to meet her there?

A. Well, she came there between five and six, or six or seven o'clock; I don't know which-I don't know just what time it was, and my landlady didn't want her to see me; she said she was a housekeeper.

Motion made by counsel for defendant to strike out last part of answer; motion granted.

Q. Did you see her?

A. Yes, sir; I seen her. Q. When you seen her commence with that—you went down to see her in the room?

A. She was in the front parlor.

Q. What conversation did you have with her?

A. I went in and asked her if she was looking for girls and she said-

Q. What did she say?

- A. And she said "yes," and I told her I would come with her if I didn't owe a bill.
  - Q. How much of a bill did you owe? A. I owed fifteen dollars and a half.
    Q. To whom.
    A. To Anna Parker's.

Q. That is the madame who ran that house?
A. Yes, sir.
Q. What was done, or what was the conversation after she said she would pay your bill?

A. I went to pack my trunk.

Q. Did she say at that time where she was going to take you? A. No, sir; only she was going to take me to Cincinnati.

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Q. While you went on to pack your trunk did she go away? A. Yes, sir; she went back across the street to the house where

she came from.

Q. When did you next see her?

A. Well, that night about half past 12 o'clock, I suppose it W88.

Q. Did she come to your house again? 36

A. She came over there in a cab and her and Stella and they came in and we went all out.

Q. Who was with her when she came to the house?

A. Stella Larkins.

Q. And you went where?

A. C. & O. Depot.

Q. What does the C. & O. stand for; can you give the full name of it?

A. No, sir; I can't.

Q. The depot across over the river and you got to the depot on the south side of the river?

A. Across over the Kanawha River.

Q. And there is only one railroad on the south side of the river?

A. Yes, sir.

Q. After you got to the depot-what time did you get to the depot?

A. I don't remember.

Q. You didn't leave the house until after midnight?

A. No. sir.

Q. After you got to the depot what, if anything was done about

fare and transportation to Cincinnati?

A. Well, the train were late that night, and we walked around and got a lunch, and walked around, and Bessie bought the ticket,then Bessie bought my ticket.

Q. Bessie Green?

A. Yes, sir.

Q. She bought the tickets?

A. Yes, sir; I never saw the ticket. Q. Did she give it to you?

A. No, sir.

Q. What did she do with it?

A. She gave it to the conductor, I suppose.

Q. You didn't give the ticket to the conductor?
A. No, sir.

Q. Did you see her buy the tickets?

A. I saw her go to the ticket office, I suppose she bought the tickets.

Q. Well, you got upon the train, did you? A. Yes, sir.

Q. And what time did you arrive?

Objected to; objection sustained.

Q. What did you do about purchasing transportation to Cincinnati, did you buy a ticket?

A. No, sir.

Q. Did Bessie Green say anything to you about buying 37

A. She said she would buy my ticket.

Q. You got on the train and you got to Cincinnati?

A. Yes, sir.

Q. And some one paid your fare?

A. Yes, sir.

Objected to; objection sustained.

Q. About what time did you arrive in Cincinnati?

A. I don't remember just what time it was.

Q. Was it in the forenoon? A. Yes, sir.

Q. Did you stop on the way anywhere between Charleston and Cincinnati?

A. No, sir.

Q. And you got out where at Cincinnati?

A. At Cincinnati.

Q. Was it the Grand Central depot?

A. We got off at Cincinnati, the C. & O. depot. Q. And where did you go from there?

A. To Emma Harris'.

Q. Direct from the depot?

A. Yes, sir.

Q. Who was with you?

A. Bessie Green and Stella Larkins.

Q. After you got to Emma Harris' house did you see the other defendant Emma Harris, there?

A. We seen her in the afternoon.

Q. What, if any, conversation, did you have with her?

A. Well, she came in and was talking to us and I don't rememher just what she was talking about.

Q. Give the substance of it, can you?

Objected to because incompetent because not made during the pendency of the conspiracy which was over; objection overruled; exception noted.

Q. Give the substance of it, can you?

A. She said she hoped we would like it there, and that it was a good house to make money and I don't just remember anything else that was talked about.

Q. Did you talk at that time about the expressage upon your

trunk?

A. Yes, sir.

Q. When did you receive your trunk?

A. I came like today and the trunk came there the next

Q. You were there one day when the trunk came, the trunk came the next day after you came, isn't that correct?

A. Like I would come there yesterday morning and the trunk would come there tomorrow morning.

Q. One day intervening?

A. Yes, sir.

Q. When your trunk came, how did it come, do you know?
A. How did it come?

Q. Yes; were there any charges on it? A. Yes, sir; there were charges on it.

Q. How much, do you know?

- A. Well, there was \$15 and a half charges and besides the express.
  - Q. And how much was the express, do you remember?

Objected to because irrelevant and because the conspiracy had ended; objection overruled; exception noted.

Q. I don't remember.

Q. What, if any conversation, did you have with Miss Harris about the payment of these charges and expressage?

Objected to for the same reason as mentioned above; objection overruled; exception noted.

A. Mrs. Harris always kept books with us and she put down everything; everything was put down-about paying my trunk, the bill, and she put down about my fare, and I was to pay her.

Motion made by counsel for defendants to strike out answer because not responsive, and because the answer is secondary evidence of a book account; and because the conspiracy was at an end; motion overruled; exception noted.

Q. You seen that book?

A. Yes, sir; I seen that book and I seen the account.

Q. And that left a charge against you when you came there of about how much; do you know how much the charge was all told?

A. Just the trunk and express, and the ticket.

Q. And do you know how much was the expressage and your ticket?

A. I don't know just how much it was.

Q. But all those three were charged against you-What items were put down in that book, will you please tell the jury that?

A. Well, my bill was put down, what she paid the express and my fare from Charleston, West Virginia, to Cincinnati. 39 Q. Now, the first night that you came there did you meet

men? A. Yes, sir.

Q. And you took them to your room?

A. Yes, sir.

Q. And received pay for staying with them?

A. Yes, sir.

Q. And how much did you receive from each person-what was the price?

A. The price of the house? Q. Yes?

A. It is a dollar house.

Q. And you continued to do that thereafter?

A. Continued to do that?

Q. Yes; meeting men there as long as you stayed there? A. Yes, sir.

Q. How long did you stay at that house?

A. I stayed there from the time I came there until I went to the hospital.

Q. You got sick and they took you to the hospital?

Q. Cincinnati, Ohio, is the place you came to?

A. Yes. sir.

Recess until two o'clock.

#### Afternoon Session.

#### By Mr. McPherson:

Q. I want to ask you where you have been since Miss Emma Harris has been arrested, where have you been since that time?

A. Since Mrs. Harris was arrested?

Q. Yes? A. In the Troy jail.

Q. How did you happen to be placed in the Troy jail, do you know for what reason?

A. I was placed in there and held as a witness.

Q. You weren't charged with any crime, were you?

A. No. sir.

Q. And the reason you were held as a witness-for what reason. do you know-were you able to give bond?

A. No. sir; I was not able to give bond.

Q. And for that reason you were placed in the Troy jail?

A. Yes, sir.
Q. To be held as a witness to testify in this case?
A. Yes, sir.

#### Cross-examination. 40

# By Mr. LITTLEFORD:

Q. What is your real name?

A. Myrtie Watson.

Q. And where is your home?

A. In West Virginia.

Q. I mean where were you born?

A. I was born in Lincoln County, West Virginia.

Q. And your folks live there yet?

A. No, sir; they live in Kanawha County, West Virginia, now.

Q. When did you leave home?

A. I stayed at home all the time until last February.

Q. And where did you go then?

A. I went with a man.

Q. You went with a man?
A. Yes, sir.
Q. To what place?
A. To work.

Q. When did you begin your sporting life?

A. Do you mean in a house?

Q. Yes.

A. In July? Q. In July?

A. Yes, sir.

Q. And you had been there how long in that place in Charleston?

A. In Charleston?

Q. Yes?

A. You mean in the house?

Q. Yes? A. I had been in the house I was since July until I came to Cincinnati, Ohio.

Q. And how long was that?
A. Since I came to Cincinnati.

Q. How long was it that you were in the house there?

A. How long was it? Well, I was in the house there until I came to Cincinnati, in July to-

Q. To the end of September, was it?

A. Yes, sir.

Q. So you were there about three months?

A. Yes, sir.

Q. And you say that was the beginning of your career in a sporting life? A. Yes, sir.

Q. Previous to that you said you had been living with a man?

A. Yes, sir; since last February.

Q. When did you live with a man? A. I didn't say I was living with him, I said I went away from home with him.

Q. To what place did you go?

A. I went up the New River with him. Q. And remained there with him?

A. Yes, sir.

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Q. For how long?

A. From the last of February.

Q. Until July?

A. No. sir.

Q. Until you went to the house?

A. Well, I will tell you in a moment-wait-I stayed with him from February until April, and then I worked from April to July. Q. You went to work from April to July?

A. I went to work from April to July and went to the sporting

house, you know. Q. And from February until April you were with this man up

the New River? A. Yes, sir.

Q. To some town?

A. Yes, sir.

Q. What town? The name of the place was Raleigh-no-yes-Raleigh.

Q. Raleigh?

A. Yes, sir.

- Q. You testified in this building before the United States Commissioner, didn't you? A. Sir?
- Q. You testified in this building before the United States Commissioner, under oath, didn't you?

A. Yes, sir.

Q. At the preliminary hearing? A. Yes, sir.

Q. Now, I will ask you if, at the hearing, you testified as follows:—from page 29: "And was your railroad fare from Charleston put down against you? A. I guess it was." Did you so testify?

A. I don't understand what you say.

Q. I will read it again. I will ask you if, on that occasion, you testified as follows: "And was your railroad fare from Charleston put down against you? A. I guess it was."

A. I guess it was.

Q. Did you so testify?

A. Sir?

Q. Did you so testify? 42 The Court: Did you say that before the Commissioner? A. Yes, sir.

### By Mr. LITTLEFORD:

Q. Now, look at me and don't look at Mr. McPherson, didn't you also testify: "Do you know that it was? A. I can't say that it was?"

A. I can't say that it was.

Q. Did you so testify before the Commissioner?

A. Yes, sir.

Q. Now, then, if you testified before the Commissioner that you couldn't say that it was, how is it that since then you testified that

A. Because I think it was; I had it to pay anyhow.

- Q. But before the Commissioner you said: "I can't say that it was?
- A. Yes, sir. Q. I will read again, speaking to Bessie Green: "Q. Did she hold out any inducements to you to come, of any kind? A. No, sir. Q. Or any promise? A. No, sir. Q. It was all done on your own part; you wanted to come; didn't you? A. Yes. Q. You never knew Mrs. Harris until you came to Cincinnati? A. No, I did not." Did you so testify?

A. Yes, sir.

Q. And that was under oath?

A. Yes, sir.
Q. That was true, was it?
A. Sir?

Q. That was true, was it?

A. Yes, sir. Q. That testimony was given how long after you had come to Cincinnati?

A. How long?

Q. Yes; how long was it after you came to Cincinnati before you were brought here to testify in this building before the United States Commissioner, do you know? The hearing was on October 28th, and you came to Cincinnati the latter part of September, so this testimony was given a few weeks after you arrived here; your memory was better then than now about these occurrences?

A. I guess it was.

Q. Again were you asked as follows:—Well, your testimony then on December 20th—that was about two and a half months after you came to Cincinnati-your memory then was better than it is now, about these matters?

The Court: She said, "I guess it was."

#### 43 By Mr. LITTLEFORD:

Q. Now, I will ask you again if you testified as follows: "Now, what we want to get at is this: Did Bessie Green have anything to do with your coming here? A. No, sir." You so testified, didn't

The Court: Yes, or no. A. I don't understand it.

### By Mr. LITTLEFORD:

You want time to read it again: "Now what we want to get at is: Did Bessie Green have anything to do with your coming here? A. No, sir." You so testified, didn't you?

A. Sir-

The Court: He asks you if you testified that way before the Commissioner, you can answer yes, or no; then explain it if you care to. Your answer must be yes, or no. Did you testify that way or not?

A. I don't remember. Mr. LITTLEFORD: What?

Mr. McPherson: She says she don't remember.

Mr. LITTLEFORD: I will ask her to look at the transcript.

Objected to.

The Court: We don't know anything about this paper.

Mr. LITTLEFORD: It is a transcript in typewriting of her testimony. She seems to have trouble with my question. Perhaps if she sees it, she will understand.

Objection sustained. Exception noted by counsel for defendants.

Q. Now, you claim that Bessie Green, the girl sitting here, paid any bills for you in Wheeling, West Virginia?

A. No, sir; she didn't pay any bills in Wheeling; no, sir, she didn't pay any bills there, in Charleston, West Virginia.

Q. Now, I want to ask you if the night that she was there at the house if you telephoned to her?

A. Yes, sir; I telephoned to her.

Q. How many times did you telephone to her? A. Twice.

Q. That was about coming to Cincinnati, was it?

A, I telephoned to her and asked her if she was ready.

Q. What?

A. I telephoned to her and asked her if she was ready and when I must get ready.
Q. Well, you wanted to come?

A. Sure I wanted to come after she came there and I told her I wanted to come.

Q. Well, she talked to you about Cincinnati?

A. Not much about Cincinnati until after we got here.

Q. Were you dissatisfied there where you were? 44

A. No, sir; I wasn't dissatisfied.

Q. But after you seen her and talked to her you wanted to come to Cincinnati?

A. Yes, sir.

Redirect examination.

By Mr. McPherson:

Q. You also testified in that case—what else did you testify to about Bessie Green about your railroad fare and Bessie Green promising to pay your bill that you owed the landlady?

Objected to for the reason that if a witness has made statements outside of court that are contradictory to statements made on the stand it does not open the door to ask the witness if she didn't say this or that if it is not corroborated on the stand.

Question withdrawn.

Q. Judge Littleford asked you if you didn't testify upon a former occasion that Bessie Green had nothing to do with your coming here and your answer was "yes" that you so testified, now, what did you mean when you made that statement?

Objected to by counsel for defendants because the witness stated it had nothing to do with her coming here.

Objection sustained.

Q. What was the name you were known by in West Virginia?

A. Nellie Stover.

Q. And what was the name Bessie Green was know- by?

A. Bessie Green.

Q. And Stella Larkins what was the name she was known by?

A. Stella Larkins.

And also LEONARD E. WATSON, who being first duly sworn, testified as follows:

Direct examination.

## By Mr. McPherson:

Q. What is your name?

A. Leonard E. Watson. Q. Where do you live? A. Cincinnati.

Q. What is your business?

A. I am Secretary of The Cincinnati Vigilance Society.

Q. Do you know where Charleston, West Virginia, is?

45 A. Yes, sir. Q. And Cincinnati, Ohio?

A. Yes, sir.
Q. And what is the full name of the C. & O. Railroad that runs from Charleston, West Virginia, to Cincinnati?

A. The full name is the Chesapeake & Ohio Railway Co.

Plaintiff rests.

# Testimony for the Defendants.

Mrs. EMMA HARRIS, alias EMMA R. SMITH, one of the defendants, being first duly sworn, testified as follows:

Direct examination.

### By Mr. LITTLEFORD:

Q. What is your full name? A. Emma R. Smith.

Q. You have a sporting house here in Cincinnati?

A. Yes, sir.

Q. What place?

A. 410 George Street. Q. 410 George Street. Does your co-defendant live there at your house?

A. Yes, sir.

Q. Do you remember when she left there last Summer?

A. Yes, sir; but I don't know exactly the date.

Q. How long was she gone?

A. Four or five days.

Q. Did you know why she went?

A. Why, she was a little angry at me and she said she wanted to make a change, and I said "all right," and I never asked her where she was going and she didn't tell me where she was going.

Q. Did you direct her to get any girls anywhere?

A. No, sir.

Q. Did you know that she was going to Charleston, West Virginia?

A. No. sir.

Q. Did you give her any money to get any girls? A. No, sir.

Q. Now, when she came back were these other girls with her?

A. Yes, sir.
Q. These two girls who testified on the stand?

A. Yes, sir.

Q. Did you, at any time, write to those girls?

A. No, sir. Q. Did you do anything to induce them to come to Cincinnati?

A. No. sir.

Q. Did you do anything towards providing them with railroad fare to come to Cincinnati?

A. No, sir.

Q. Did you ever send them any money?

A. No, sir.

Q. Had you ever seen them before they came to your house?

A. No, sir.

Q. How long after they came to your house did you - them first for the first time?

A. Well, I had a sick headache that day and I got up kind of late; I guess they must have been in the house about an hour or an hour and a half before I saw them.

Q. And where did you see them first?

A. Up in the front room upstairs, in the third floor. Q. Did they remain in your house after that time?

A. Yes, sir.

Q. Did they receive company?

A. Yes, sir.

Q. Did they begin to receive company on that first night? A. Yes, sir.

Q. And did they receive company every night?

A. Yes, sir; every night.
Q. Which one was it was taken to the hospital sometime after arriving there?

A. That little one, Nellie.

Q. Now, how long after she arrived when she was taken to the hospital?

A. About two weeks.

Q. Do you remember when their trunks arrived?

A. Well, Stella's trunk came there about three days after she was there and Nellie's trunk came there the next day.

Q. Now, when they first came relate what occurred?

A. Well, the trunk came and I called Stella downstairs and she came down, and I said her trunk was here, and she asked me would I pay for her trunk, and I told her that there was money coming to her, she had made money and she had that money coming to her. and I paid for the trunk.

Q. Was she present when you paid for it? A. Yes, sir.

Q. Whose money was it?

A. Her own money, she had made it.

47 Q. How much did you pay on the trunk, do you remember?

A. Fifteen dollars it was.

Q. By the way do you keep any books in your house?

A. No, sir.

Q. Have you any books at all? A. No, sir.

Q. It has been said here that you charged up against these girls a railroad fare of five dollars and 20 cents from Charleston, and also what you paid on the trunk, did you do anything of that kind? A. No, sir, I did not.

Q. Do you know anything about that railroad fare?
A. No, sir.

Q. Who paid it, do you know? A. No, sir.

Q. Did you ever give it back to them after they came to Cincinnati?

A. No, sir.

### Cross-examination.

### By Mr. McPherson:

Q. Your name is Emma Harris in Cincinnati?

A. Yes, sir.

Q. And you have been known by that name in this city for about how many years?

A. About 23 years.

Q. Have you kept a house of prostitution in Cincinnati for that length of time?

A. Yes, sir. Q. You have no other business?

A. No, sir.

Q. And your business and means of livelihood for that period of time has been of having girls at your house and paying you for that privilege? A. Yes, sir. Q. You say that Stella Larkins' trunk got there the day after she

did?

A. Three days after she did.

Q. Which trunk got there the next day after the girl came?

A. No trunk came there the next day.

Q. Then you mean to say that one trunk came three days after the girls did and one four days?

A. Yes, sir.

Q. How many rooms do you have in your house?

A. About 16. Q. How many girls did you have at your house at that 48 time when these girls came?

A. I think it was eight.

Q. And how many girls did you have when the Green woman left your house, Bessie Green?

A. I think it was seven.

- Q. There were seven-so that your house was not full when she left?
  - A. Yes, sir; that is all the ladies I keep; I don't keep any more.

    Q. You don't keep any more?

    A. No, sir.

When she came back unexpectedly to you with these two additional girls you took them in. didn't you?

A. Yes, sir.

Q. Now, she left you four or five days before she returned with these girls?

A. Yes, sir.

Q. And when she left you she was angry with you?

A. Yes, sir.

Q. And went away in that frame of mind?

A. Yes, sir.

Q. Did she owe you anything when she left?

A. No, sir.

Q. Left her trunk?

A. I asked her what I must do with her clothes and she said she

would send for them.

Q. In your business in case one of your girls owes you money when she leaves, she doesn't get her trunk and clothes until she pays up?

Objected to; objection sustained.

Q. What arrangements did you make with these two women about paying for their board and percentage on their earnings?

A. They asked me how much the board was and I told them

three dollars a week?

Q. How much?

A. Three dollars a week. Q. Three dollars a week?

A: And room money.

Q. By room money you mean what? A. A dollar a room.

Q. A dollar?

A. A dollar a room.

Q. A dollar a room a man, you mean?

A. Yes, sir; for the rooming, for the room.

Q. That is for the use of it by one of these girls and a 49 man-each time they were to pay you a dollar?

A. Yes, sir.

Q. And did you collect that from them after each one of these acts between a man and a woman, or all after the night is over?

A. After the night is over.

Q. And you say that you have eight girls at your place—that you had eight girls at your place at that time?

A. Yes, sir.

Q. And that you didn't keep any record of the number, or amount these girls owed you, or the amounts they paid you?

A. Yes, sir.

Q. You didn't know what was due to you from any one of them? A. I just put it on a piece of paper, and when they make money, they have tickets and punch those tickets.

Q. What did you do with the records that you made?

A. I only keep one week's records at a time. Q. You destroyed them at the end of the week?

A. Yes, sir.

Q. And would you then be able to determine if the girls were owing you money?

A. They never owe me anything; they just pay as they go along. Q. And they borrow money from you and get money from you

for their clothes, isn't that a common practice in your house?

A. Some times they do.

Q. Some times they do. When they do how did you keep a record of that?

A. When a peddler come in and he sells the girls, and he wants me to stand good for them and I just say "yes," and he leaves the

Q. Then how would you keep track of that and with all your

women?

A. I just put it on a piece of tablet paper.

Q. Then what would you do with the tablet?

A. Count it up when the week's up.

Q. And didn't run it more than a week?

A. No. sir.

Q. Never did? A. No. sir.

Q. Didn't you tell Mr. Watson-this gentleman sitting hereabout the 20th of December, that you did have such a book? 50

A. No, sir; I never talked to Mr. Watson.

Q. At no place? A. He ordered me out of the parlor when he came in.

Q. I will ask you if you didn't tell Mr. Watson at that house, on or about December 20th, that you had yourself paid for the trunk of Nellie Stover?

A. No, sir; I never had no conversation with Mr. Watson.

Q. He was at your house, you recognize him?

A. Yes, sir; he came in with Mr. Kuhns and he asked if Stella was in, and I came in with Stella, and he ordered me out of the parlor; Mr. Kuhns can tell you that.

Q. Did you see Mr. Watson after the hearing when he went up to

get Nellie Stover's trunk?

A. Yes, sir.

Q. So you did have a conversation with him?

A. No, sir; I just saw him. Q. You say you didn't?

A. No, sir.

Q. When he went to get Stella's trunk did you have a conversation with him?

A. No. sir.

Q. And I ask you now, if you didn't, at that time, when he went to get those trunks, tell him that you had a book and you made a record in your book?

A. No, sir; I had no conversation with Mr. Watson about any

books. I simply did not.

And also Bessie Green, who being first duly sworn, testified as follows:

Direct examination.

### By Mr. LITTLEFORD:

Q. What is you all name?

A. Bessie Gren. Q. Bessie Green?

A. Yes, sir.

Q. Where do you live? A. 410 George Street.

Q. You are an inmate of the Harris house there? A. Yes, sir.

Q. Now, under what circumstances did you leave the house there,

you may tell the court and jury?

A. Well, I was somewhat dissatisfied—I happened to get somewhat dissatisfied and I felt like making a change and I went away; a couple of days I was over in Covington with some friends and from there I went to Charleston.

Q. To Charleston? 51

A. Yes, sir. Q. Did you tell Mrs. Harris that you were going to Charleston?

A. No, sir.

Q. Did Mrs. Harris give you any money when you left?

A. No. sir.

Q. Or ask you to get any girls?

A. No, sir.

Q. Did Mrs. Harris know where you were going?

A. No. sir.

Q. Now, after you arrived at Charleston what did you do? A. I went to the hotel; I arrived there about midnight.

Q. What hotel did you go to? A. I don't remember the name.

Q. On what street was it?

A. I don't remember the street but it was over the river; I went in an omnibus about a couple of blocks, or so; about two blocks.

Q. How long did you stay at the hotel?

A. Through the night until the next day at noon. Q. Now, then, what did you do?

A. Then I went to a neighboring restaurant for breakfast and from there I walked up, I think they call it Capitol street.

The Court: Won't you talk a little louder?

A. Yes, sir.

### By Mr. LITTLEFORD:

Q. You got your breakfast then went up Capitol street?

A. I think that is the name; I am not sure.

Q. Then what happened? A. Then coming on to where the court house is I met a colored woman and asked her where the sporting district is and she told me; she said she was going to that neighborhood with a dress and I could walk along with her, and she took me to a house by the name of Mary Brown-Brown's sporting house.

Q. Who did you meet there?

A. Three or four girls; Stella Larkins, the one who was on the stand first.

Q. How long were you at Mary Brown's sporting house there?

A. From noon until about 5 o'clock in the evening.

Q. State whether or not you engaged board in that house?

52 A. I did.

Q. Did you engage board in the presence of Stella Larkins? A. I think she was present as the landlady was out that afternoon and she came in later.

Q. Now, did you tell the girls in that house where you were from?

A. Yes, sir; they asked me and I told them I was from Cincinnati. Q. Did you tell them from which house you were in Cincinnati?
A. I believe I did.

Q. Did you, or did you not, mention the Harris house there in Cincinnati?

A. To the best of my knowledge and belief, I believe I did.

Q. Did you tell them anything else about Cincinnati?

A. We got in a general conversation in the talk of the houses and I said Cincinnati is a very good place for money.

Q. Were there any restrictions there about the time for women to be on the street?

A. Yes, sir.

Objected to; withdrawn.

Q. State whether, or not, you were satisfied in Charleston, after you arrived there and found out the conditions?

A. I was not.

Q. When did you make up your mind to come back to Cincinnati?

A. The same day, as the women are not allowed after nine o'clock on the street.

Q. What was said by you to Stella Larkins about coming to Cincinnati?

A. Nothing that I remember; only she said she would like to come along.

Q. Did you persuade her? A. I did not.

Q. Or did you induce her?

A. I did not in no way at all.

Q. State whether, or not, it was voluntary, or not?

A. It was voluntary; she came in the room where there was a sick girl and asked my permission to go along; and I said you may if you see fit.

Q. Now, did you visit any other house there that afternoon be-

sides the Mary Brown house?

A. Yes, sir. Q. Where?

A. Anna Parker.

Q. How far was that?

A. About half a block away on the same street.

Q. Were you up there, by the way, to get any girls, or were you looking for girls?

A. No, sir. I went there to look at the house to see whether, or not

I would like the house better than the first one.

Q. Now, did you ask the girls in that place to come to Cincinnati? A. I didn't. This girl Nellie came in there and asked me if she could come along.

Q. You mean this second girl? A. Yes, sir; she came in while I was talking to the landlady. Q. She came in while you were talking to the landlady?

A. Yes, sir.

Q. What did she say?

A. Asked me if she could come along.

Q. Where?

A. Back to Cincinnati. Q. What did you say?

A. I told her she could if I got back.

Q. Did you advise her to come to Cincinnati?

A. No, sir; no way at all.

- Q. Now, when was it that you started arrangements to return to Cincinnati?
- A. The arrangements were not made because I did not know whether I was returning to Cincinnati that night, or the next night.

Q. Who called you up by telephone?

A. Nellie called me up.

Q. Nellie called you up and what did she say?

A. She asked me if I would return that night, and the first time I didn't give no definite answer.

Q. Now how did you go to the depot?

A. I went in a taxi.

Q. I want you to state who called that taxi up?

A. Stella Larkins ordered the cab.

Q. Did you—how did she call it up—by telephone?

A. Yes, sir.

That's the girl who was on the stand? Yes, sir; in the house I engaged boarding.

Q. How long did you have to wait for the train?

A. An hour or so. 54 Q. By the way, did you tell Mary Brown, at the house where you stayed, or did you tell Stella Larkins, the girl who stayed there that you would pay any bills for her?

A. No, sir; I never paid any bills. Q. Did you pay any bills there?

A. No, sir.

Q. Did you have any money to pay?

A. No, sir.

Q. Had you ever met these girls before?

A. Not until I was in the house.

Q. Did you offer the landlady any money?

A. No. sir.

Q. Or did you give the landlady any money?

A. No, sir.

- Q. After you arrived at the depot, what about the tickets? A. I bought my tickets shortly before the train was due.
- Q. Did you give either of these girls any money to buy tickets?

A. No, Eir.

Q. Or did you pay for them?

A. No, sir.

Q. One of these girls, I don't know which, said you bought her ticket and the other one that you gave her the money, did you do either?

A. Neither one.

Q. Did you agree to pay for their tickets?

A. No, sir; neither one.

Q. Were you all together all the time? A. Well part of the time we were separate but we mostly sat together.

Q. You had to sit there how long?

A. An hour or an hour and a half.

Q. You came to Cincinnati?

A. Yes, sir.

- Q. And you went where? To Mrs. Harris'?
- A. I went back to Miss Harris', yes, sir. Q. The girls went along with you?

A. Yes, sir.

Q. Did you go in a cab?

A. No, sir.

Q. Walked up? A. Yes, sir.

Q. Did you ask the girls to go there?

A. No, sir.

Q. Did you suggest to them to go there? 55

A. No. sir. Q. Did they suggest going anywhere else in Cincinnati at any time?

Q. Did they know any place in the Cincinnati?

A. Not that I know of.

Q. Now, after you got up to Miss Harris', did you meet Miss Harris there when you arrived?

A. No, sir.

Q. Did she receive you, or any of the girls?

A. She didn't receive us.

Q. Had you sent her any word that you were coming with girls?

A. No, mr.

Q. Or was she expecting you there?

A. No. sir.

Q. Now, after you came there with the two girls what did you do? A. Went in and asked the maid for my key and went to my room.

Q. Do you know where they went?

. ..

A. They went to another room; spare room and went to bed. Q. After that did they receive company like any other girls in the house?

A. In the evening.

Q. Do you know how long after they came their trunks arrived?

A. As near as I can remember three or four days?

Q. Had you anything to do with paying for those trunks?

A. No, gir, Q. Now, I want to ask you this: Does Miss Harris keep any books".
A. No, sir.

Q. Did you ever see, or know, of any charges made by Miss Harris in any books against these girls for railroad tickets?

Q. Or for any money that was paid on the trunks?

A. No, sir.

Cross-examination by Mr. DARBY:

Q. When you talked with the two girls, did you tell them Emma Harris' name?

A. No, sir.

Q. Did you give them Emma Harris' address? A. No, sir.

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Q. So far as you knew they had never heard of Emma

Harris? A. So far as I know they did not.

Q. And so far as you know they never knew of Emma Harris and that she lived at 410 George Street, Cincinnati?

A. No, sir.

Q. When you left the place-Brown's for instance, were the trunks of the girl- who lived at the Brown house taken away at the same time!

A. No, sir; there was no trunk taken away to my knowledge.

Q. Neither, so far as you know was sent? A. No, sir; I don't; they didn't speak of no trunk to me.

Q. Don't you know that their trunks were prepared for shipment to Cincinnati?

A. Told me they were prepared.

Q. That they were preparing to ship them? A. No, sir; no trunk was shipped.

Q. And don't you know that they were preparing the trunks to be shipped to Cincinnati?

There was no shipment talked about.

Q. They didn't mention a word about trunks?

A. They didn't. Q. When they talked of coming, they simply talked of coming

without bag or baggage of any kind?

A. I think one of them had a suit case. Q. Don't you know that while you were in Charleston, that you gave the address of Miss Emma Harris, 410 George street, Cincinnati, Ohio, and that that address was written on two tags which were fastened to the trunk of one of those girls in Charleston, and that that trunk with that card upon it, and that address, was delivered to that house, and you saw those checks taken off those trunks?

A. No, mr; I did not see them taken off.

Q. How did the girls know the address of Miss Harris if you didn't have any conversation with them?

A. Simply because I was going back as the landlady asked me where I came from and told her where I was going.

Q. You didn't tell them but you told the landlady? A. Yes, sir.

Q. And you didn't tell the girls?

A. No, sir.

57 Q. Did the landlady tell you that the girls owed money?

A. She didn't speak to me about the girls. Q. And didn't she tell you that there would be charges on the trunks if the girls would come to Cincinnati?

A. No, sir.

Q. Who paid for the cab at Charleston? A. I don't remember.

Q. Don't you know that you did yourself?

A. I don't quite remember.

Q. Well, won't you refresh your memory; don't you remember that you did pay it?

A. No, I can't remember that I did; I paid for the lunch.

Q. Do you remember whether either one of the other girls paid for the cab?

A. No. sir.

Q. Don't you know they told you they had no money that they couldn't pay for the cab; they couldn't pay for any railroad fare and they couldn't pay for getting their trunks out of that house?

A. We didn't have enough conversation long enough.
Q. You say you left Harris' because you were dissatisfied?
A. Yes, sir.

Q. How many days was that before you returned?

A. Four or five days.

Q. Don't you know which day of the week it was you returned to Harris'?

A. I believe Wednesday morning.

Q. Now, what day of the week did you leave Harris'?
A. I think it was Thursday of Friday before.

Q. Of the week previous?

A. Yes, sir.

Q. Where did you go first?

A. I went over the river to a friend of mine in Covington.

Q. How long did you remain there?
A. Until Monday night.
Q. Then where did you go when you left there?

A. I went to Charleston, West Virginia?

Q. Did you go directly from Covington to Charleston, West Virginia?

A. Yes, sir.

Q. And when did you get to Charleston, West Virginia, the same day?

A. The same evening. 58

Q. You left Cincinnati Monday, the night of Monday? A. Yes, sir.

Q. Then you landed on to the streets in Charleston for the first time on Tuesday morning?

A. Yes, sir.

Q. About noon?

A. Yes, sir.

Q. You had never been there before?

A. No, sir.

Q. You weren't acquainted with people there?

A. No, sir.

Q. You went then to Brown's house?

A. I met a colored woman-

Q. Well, you went to Brown's house?

A. Yes, sir.
Q. And engaged board there?
A. Yes, sir.
Q. For how long a time?

A. I engaged board for to stay there. Q. For how long a time?

A. Until I found later particulars of it for a week.

Q. Did you pay your board? A. It is not customary to pay.

Q. Did you have your trunk or baggage of any kind with you?

A. No, sir.

Q. Didn't you pay Miss Brown, or Mrs. Brown, something?

A. No, sir.

Q. Did you eat at her table?

A. I did.

Q. And took a room? A. I didn't sleep there.

Q. Did you have a room assigned to you? A. No, sir; because I decided to return.

Q. You say when you came to the house you saw this girl Stella Larkins?

Q. How long had you been there before you got to talking to this girl to come to Cincinnati?

A. About three hours. Q. About three hours.

A. Yes, sir. Q. And you were at the Brown house all of that time?

A. Yes, sir.

Q. Then after you had talked with her you say you con-59 cluded to go to the other house; what was the house's nameof that other woman?

A. Anna Parker, I believe.

Q. When you went to the Parker house did you make any arrangements there for board?

A. I asked her what her terms were? Q. Did she tell you what they were?

- A. They were equal.
- Q. The same thing?

A. Yes, sir. Q. Then you said that while you were at that house Nellie Stover asked you if she could come along?

A. She did.

Q. Come along where?

A. Come along to Cincinnati.

Q. How did she know you were going back to Cincinnati?

A. She heard I wasn't going to stay there.

- Q. From whom did she hear that you were from Cincinnati? A. From the landlady and myself; we were talking about it.
- Q. Don't you know that the landlady didn't want these girls to leave them, and said so in their presence and your presence?

A. No sir; not in my presence.

Q. And this girl, you mean to say, asked you if she could come

along; this other girl? This Stover girl?

A. Yes, sir.

Q. And you say upon the witness stand, as to the other one she could come if she wanted to?

A. Why, certainly.

Q. Then you proceeded about making the arrangements about coming, sent for a taxi-cab and came to the station?

A. No, sir; there was no arrangements made until the phone call.

Q. Then you told her you would return to Cincinnati that night? A. Yes, sir; as they have got to register in Charleston, West Virginia, you got to register and you are not allowed on the streets after nine o'clock without police permission, and I couldn't stand for that.

Q. You wouldn't stand for that?

60 A. You have to register and I would have had to register and I wouldn't be allowed to leave until I got a permit.

Q. Well, you weren't then assigned to a room in either one of these houses of prostitution, were you?

A. No, sir.

Q. You stayed all the night before in a hotel? A. Yes, sir.

Q. And you preferred to travel all night with these girls rather than to go back to this hotel where you had spent the night before?

A. Yes, sir.

Defendant rests.

### In Rebuttal.

LEONARD E. WATSON, called in rebuttal, testified as follows:

Q. Mr. Watson, you know the defendant Emma Harris?

Q. Did you see her on or about the 20th day of December, at her house?

A. Yes, sir; at different times.

Q. Did you go there on that day to get a trunk for either the Stover or the Larkins girl?

A. I went there to get the trunk of the Larkins girl and was

obliged to call a policeman.

Q. Did you call to get her trunk?

A. Yes, sir.

Q. I will ask you, while you were at Emma Harris' whether, or not, she said she paid the charges on that trunk and had an account book and showed it to you?

A. She certainly did and had the book on her desk.

Thereupon both sides rested their case.

Thereupon the case was argued to the jury by respective counsel.

Thereupon the Court charged the jury as follows:

GENTLEMEN OF THE JURY: The Government of the United States of America makes certain charges against the two women, who are here in court, the defendants in this case set out in the indictment.

The indictment charges three offences as against the laws of the

United States.

The Congress of the United States, acting under authority 61 of what is known as the Commerce Clause of the Constitution of the United States has caused a certain law to be passed with respect

as to what is known as The White Slave Traffic.

It is under that law that this charge is preferred against these defendants by the United States of America. They are not charged with keeping a house of prostitution, nor with being inmates of a house of prostitution. There is no such charge here. They are not charged with seduction as leading away an innocent, pure woman from a right and virtuous course of conduct; they are not charged with fornication or adultery, or immoral acts, or any conduct of that kind.

It is immaterial entirely, so far as the charges are co-cerned that one is an inmate of a house of prostitution, or that the other keeps a house of prostitution; or that two of the witnesses for the government are women who were inmates of a house of prostitution before

they came.

I say these things to you so that you may confine your deliberations to the charges made in this indictment, which has to do with Interstate Commerce, and has nothing to do with the direct charge of any of those immoral and illegal acts which I have mentioned when I first commenced to give this charge to the jury.

You are to approach the case then with respect to the charges contained in this indictment and that is all; and you are to extend to these defendants the same measure of righteous judgment upon the facts that you extend to any defendant in any other case ir-

respective of their occupation.

You are to weigh the testimony with the utmost care, as you would in any case, and not permit your minds to be influenced in the slightest degree by their occupation, for that is not to be weighted in connection with the charge against them except so far as it has to do with the purpose which the government charges these defendants had in mind when they did the illegal act complained of, if they did the illegal act complained of. On the other hand while you ought to free your minds from prejudice and bias, you are not to be influenced by any consideration of mercy, or of sympathy for the defendants in their occupying as they do professedly and without question an attitude towards the world which is unfortunate. The question is not to be decided in this case upon considerations of sympathy or of mercy; you have nothing to do with that at all;

you are simply to be governed by the facts in the case and that is all—as reflecting upon the charges made in this

indictment and that is all.

I will read the indictment to you for I don't think it has been read in full to the jury; and the indictment means only that the United States makes the charge; that it does make up this piece of paper called the indictment. That is all. And no juror must permit any thought to come into his mind that no indictment would have been made out unless the defendants were guilty, that is not a proper but an improper attitude of mind. The indictment means nothing more than that there has been some way for the United States to present its charges as presented in the indictment.

Now what does it say?

"THE UNITED STATES OF AMERICA, Western Division of the Southern District of Ohio, 88:

In the District Court of the United States Within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the Term of February, in the Year of Our Lord One Thousand Nine Hundred and Eleven. 1st Count.

Sec. 2 .- Act of June 25, 1910, 36 Stat. 825. 'White-Slave Act.'

The Grand Jurors of the United States of America, duly empaneled, sworn and charged to inquire within and for the Western Division of said District, upon their oaths and affirmations, present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to-wit, the eighth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Circuit and Western Division of the District aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for and in transporting in interstate commerce, to-wit, from the City of Charleston, in the State of West Virginia, to and into the City of Cincinnati, in the County of Hamilton and State of Ohio, and within the southern Judicial district of said State of Ohio, and within the jurisdiction of this court, two certain women, to wit, Nellie Stover and Stella Larkins, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and Bessie Green, and each of them, that each of said Nellie Stover and Stella Larkins, would and should in said City of Cincinnati, State of Ohio, engage in the acts and practices of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2nd Count. Sec. 2. Act of June 25, 1910, 36 Stat., 825; 'White

Slave Traffic Act.'

And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to-wit, the eighth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained, at the City of Charleston, in the State of West Virginia, two certain railroad passenger tickets from the Chesapeake & Ohio Railway Company, then and there a common carrier of passengers, engaged in interstate commerce, each of which said tickets was good for transportation for one person from said City of Charleston, West Virginia, to the City of Cincinnati, in the State of Ohio, upon and over the line and railroad route of the said Railway Company,-with the purpose and intention that said tickets should be used by two certain women, to-wit, Nellie Stover and Stella Larkins, in interstate commerce, to-wit, in going from said City of Charleston, in the State of West Virginia, to said City of Cincinnati, in said State of Ohio, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them that each of said women, to-wit. Nellie Stover and Stella Larkins, would and should, in said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain,—whereby, and with the means and by the use of the said tickets, said Nellie Stover and Stella Larkins were then and there and thereupon carried and transported as passengers in interstate commerce, over and upon the railway route and line of said railway company, to-wit, from said City of Charleston, in the State of West Virginia, to and into the City of Cincinnati, in the State of Ohio, and within the southern Judicial district of said State of Ohio, and within the jurisdiction of this court, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

3rd Count. And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to-wit, the eighth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded, induced and enticed, two certain women, to-wit, Nellie Stover and

Stella Larkins, to go from one place, to-wit, the City of Charleston, in the State of West Virginia, to another place, to-wit, the City of Cincinnati, in the State of Ohio, within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to-wit, Nellie Stover and Stella Larkins, would and should in the said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, with the consent of the said Nellie Stover and Stella Larkins; and did then and there and thereby knowingly cause and aid and assist in causing said women, to-wit, Nellie Stover and Stella Larkins, to go and be carried and transported in interstate commerce, as passengers, upon and over the railway route and line of the Chesapeake & Ohio Railway Company, a common carrier engaged in interstate commerce, to-wit, from the said City of Charleston, in the State of West Virginia, to and into the City of Cincinnati, in the State of Ohio, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America." And signed by the District Attorney of this District.

And the last read charge is the third count of the indictment.

There are three charges then in this indictment.

These charges, if proved, constitute offences against the laws of

the United States in interstate commerce.

The defendants, each of them, have pleaded not guilty to these charges, or any of them. And thereupon they are presumed to be innocent until they are proved by the United States to be guilty, and to be guilty beyond a reasonable doubt. If the jurors have

an abiding conviction, amounting to a moral certainty, that
these defendants, or either of them, are, or is guilty of the
offences charged, or either of them, then there is no room
for reasonable doubt, and the verdict would be guilty; if, on the
other hand, the jurors have not an abiding conviction amounting
to a moral certainty, that the defendants, or either of them, are
guilty of these offences as charged, or either of them, or any of
them, then there is no room for reasonable doubt and your verdict
will be not guilty.

The facts are for the determination of the jury, and the jury are to consider every fact and circumstance in the case in order to reach

a proper conclusion.

In reaching the facts you will necessarily consider all of the testimony, and give every part and all of it as much weight as you think it is entitled to. That every witness is presumed to tell the truth—all persons are presumed to tell the truth. And it is for the jury to say, in any particular case, with respect to any witness whether, or not, the truth has been told or not.

It is within your province to believe all that a witness has said, or to believe part of it; to receive all that a witness has said, or to

receive part of it; to reject all a witness has said, or reject part of it, according as you shall think the witness is entitled to belief or not; if entitled to belief with respect to part of it and not entitled to belief

with respect to other parts as you may determine.

And in weighing all testimony, while it is true that all persons are presumed to tell the truth, nevertheless we all know, from common experience, that all men and all women, do not, at all times, tell the truth, that sometimes men and women are prejudiced, influenced or biased, or by motives of some kind; it will be the duty of the jury to look into any motive any witness may have which may possibly operate upon the mind of a witness in such a way as to cause the witness to deviate from the exact truth, if there are any motives of that kind to be observed by the jury in this particular case.

Now, you will have observed in this indictment that the two defendants are charged with having committed three offences against the laws of the United States, and you will have to consider each

one of these charges separately against each.

In order to convict the defendants, or either of them, the United States must prove at least one of these charges against them, or

either of them.

The defendants are charged jointly, you will have observed; but, you may, as you may determine the facts to be, find one of them guilty, and the other not guilty, or, according as you may determine the facts to be may find both of them guilty; or if

you put it conversely, you may acquit one and find the other one guilty, or acquit them both, as you shall determine the

facts to be.

.66

Each of them is charged with three separate offences, so you will have to determine from all of the testimony whether each of them is guilty of all the offences charged, or if not all, which of the offences charged, and incorporate in your verdict, not guilty of such a charge of the indictment as you will find the defendants not guilty of.

You will retire to your jury room and select a foreman.

Counsel for defendants reserved a general exception to the court's charge.

Thereupon the jury retired and upon due deliberation returned

a verdict as appears of record herein.

The above and foregoing was all the evidence offered by either

or both of the parties hereto at said hearing.

Thereupon within three days, defendants, through their counsel, filed their motion for a new trial, which motion, upon consideration, the court overruled, to all of which defendants by counsel, then and there excepted.

And now come defendants and present this, their Bill of Exceptions, and pray that the same may be allowed, signed, sealed and made a part of the record herein, all of which is accordingly done this 21st day of March, 1911.

HOWARD C. HOLLISTER,
Judge of the United States District Court,
Southern District of Ohio, Western Di-

# "EXHIBIT A." (EXPRESS TAG.)

Form 150.
Include in Address County and State, and in Cities, Street and Number.
From Charleston, W. Va.
For Miss Emma Harris,
410 George St.,
Cin., O.

Adams Express Company.

C. O. D. 15.65.

On the back of the foregoing tag, is the following:
From Mary Brown,
718 Young St.,
Chas. W. Va.

# "EXHIBIT B." (EXPRESS TAG.)

Form 150.
Include in Address County and State, and in Cities, Street and Number.
From Charleston, W. Va.

Adams Express Company.

67

For Miss Emma Harris, 410 George St., Cincinnati, Ohio.

C. O. D. \$15.65. Ex. B.

On the back of the foregoing tag is the following:
From Mary Brown,
718 Young St.,
Charleston, W. Va.

# Petition for a Writ of Error.

And afterwards, to-wit: on the 22nd day of March, A. D. 1911, came the Defendants by their Attorney and filed in the Clerk's Office of the Court aforesaid, a certain Petition for Writ of Error in this cause, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

No. 798.

THE UNITED STATES OF AMERICA, Plaintiff,

EMMA HARRIS, alias EMMA R. SMITH, and Bessie Green, Defendants.

Petition for a Writ of Error.

And now come Emma Harris, alias Emma R. Smith, and Bessie Green, defendants herein, and say that on or about the — day of February, 1911, this Court entered judgment of conviction herein against said defendants, in which judgment and the proceedings had prior thereunto in this cause, certain errors were committed, to the prejudice of these defendants, all of which will more in detail appear from the assignment of errors, which is filed with this petition.

Wherefore, these defendants pray that a writ of error may issue in this behalf out of the United States Circuit Court of Appeals for the Sixth Judicial Circuit, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated, may be sent to the said Circuit Court

of Appeals.

MAX LEVY, Attorney for Defendants.

### Assignments of Errors.

And afterwards, to-wit: on the same day, the following Assignments of Errors was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

68 United States District Court, Southern District of Ohio, Western Division.

No. 798.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
EMMA HARRIS, alias EMMA R. SMITH, and Bessie Green,
Defendants.

### Assignment of Errors.

Now come Emma Harris, alias Emma R. Smith, and Bessie Green, defendants herein, by Max Levy, their attorney, and say that in the records and proceedings aforesaid there is manifest error, in this, to-wit:

#### First.

The Court erred in overruling the motion to quash the indictment, as appears of record herein, and to which counsel for defendants then and there excepted.

#### Second.

The Court erred in overruling the demurrer, filed by the defendants herein, to which ruling counsel for defendants then and there excepted, as appears of record herein.

#### Third.

The Court erred in overruling the motion of the defendants for a separate trial, to which ruling counsel for defendants then and there excepted, as appears on page 2 of the bill of exceptions.

### Fourth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 10 of the bill of exceptions:

"What did she say?" (Referring to the defendant, Emma Harris), and in overruling the defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

#### Fifth.

The Court erred in refusing the motion of the defendants to strike out the following answer:

"She said it was a good place to make money."

Which answer was made in response to question "What did she say?" as appears on page 10 of the bill of exceptions, and to which ruling counsel for defendants then and there excepted.

#### Sixth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 11 of the bill of exceptions:

69 "What else was said in that conversation," and in overruling the defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

#### Seventh.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears at the bottom of page 12,

and the top of page 13 of the bill of exceptions:

"Now, what conversation, if any, did you have with Emma Harris about your trunk, and about the car fare that Bessie Green bought your ticket with to bring you from Charleston," and in overruling defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

### Eighth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 13 of the bill of

exceptions:

"Did she ever put it down on the book afterwards?" and in overruling defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

#### Ninth.

The Court erred in overruling the motion made by defendants to strike out the following answer—"yes sir"—in response to the following question—"Did she ever put it down on the book afterwards" as appears on page 13 of the bill of exceptions, and to which ruling of the Court, counsel for defendants then and there excepted.

#### Tenth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 13 of the bill of exceptions:

"What did you see in that book"? and in overruling defendants' objection thereto, and to which ruling counsel for defendants then

and there excepted.

### Eleventh.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears at the bottom of page 13 of the bill of exceptions:

"Which railroad fare do you mean?" and in overruling defendants' objection thereto, and to which ruling counsel for defendants

then and there excepted.

#### Twelfth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 14 of the bill of exceptions: "How much?"—and to which ruling of the Counsel, counsel for defendants then and there excepted.

#### Thirteenth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 14 of the bill of exceptions:

"And how much of a debt was against you?" and to which ruling

of the Court, counsel for defendants then and there excepted.

#### · Fourteenth.

The Court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 14 of the bill of exceptions:

"\$30.00, the expressage and \$5.05 railroad fare?" and to which ruling of the Court, counsel for defendants then and there excepted.

#### Fifteenth.

The Court erred in permitting the cards, marked "Exhibit A and Exhibit B" to be read in evidence, as appears on page 16 of the bill of exceptions, and in overruling defendants' objection thereto, to which ruling of the Court counsel for defendants then and there excepted.

#### Sixteenth.

The Court erred in permitting the witness, Nellie Stover, to answer the following question, as appears on page 37 of the bill of exceptions:

"Give the substance of it, can you?" and in overruling the objection of the defendants, to which ruling counsel for defendants then and there excepted.

#### Seventeenth.

The Court erred in permitting the witness, Nellie Stover, to answer the following question, as appears on page 38 of the bill of exceptions:

"And how much was the express, do you remember?" and in overruling the objection of the defendants, to which ruling counsel for defendants then and there excepted.

### Eighteenth.

The Court erred in permitting the witness, Nellie Stover, to answer the following question, as appears at the bottom of page 38 of the bill of exceptions:

"What, if any, conversation, did you have with Miss Harris about the payment of these charges and expressage?" and in overruling defendants' objection thereto, to which ruling counsel for defendants then and there excepted.

### 71 Nineteenth.

The Court erred in overruling the motion of the defendants to strike out the following answer of the witness, Nellie Stover, as appears on page 39 of the bill of exceptions:

pears on page 39 of the bill of exceptions:

"Mrs. Harris always kept books with us and she put down everything; every thing was put down, about paying my trunk, the bill, and she put down about my fare, and I was to pay her," and to which ruling counsel for defendants then and there excepted.

### Twentieth.

The verdict and judgment rendered herein is contrary to law.

# Twenty-first.

The verdict and judgment rendered herein is contrary to law and not sustained by the evidence.

### Twenty-second.

The verdict does not establish the guilt of Emma Harris, alias Emma R. Smith, beyond a reasonable doubt.

### Twenty-third.

The verdict does not establish the guilt of Bessie Green beyond a reasonable doubt.

### Twenty-fourth.

The Court erred in overruling the motion in arrest of judgment and supplemental motion in arrest of judgment, to which defendants excepted, as appears of record herein.

### Twenty-fifth.

For other reasons apparent upon the face of the record.

Wherefore, defendants pray that said judgment of the District Court may be reversed.

MAX LEVY,

Attorney for Defendants.

# Entry, 10-840.

And afterwards, to-wit: on the same day, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 798.

UNITED STATES OF AMERICA, Plaintiff,

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Defendants.

# Entry Allowing Writ of Error.

This 22nd day of March, 1911, came Emma Harris, alias Emma R. Smith, and Bessie Green, defendants herein, by their attorney, and filed herein and presented to the Court their petition, praying for the allowance of a writ of error, an assignment of errors intended to be urged by them, praying also that a transcript of the record and the proceedings and papers, upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Sixth Judicial Circuit, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the writ of error upon the defendants giving bond, according to law, in the sum of Three Thousand (\$3,000.00) Dollars, which shall operate as a super-

sedean bond.

9-602

### Præcipe.

And afterwards, to-wit: on the same day, the following Precipe for Transcript was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio.

No. 798.

THE UNITED STATES OF AMERICA
VS.
EMMA HARRIS et al.

T- B. E. Dilley, Clerk of said Court:

Please prepare a certified copy of the record and proceedings in the above entitled cause to be filed in the Circuit Court of Appeals on proceedings in Error.

> MAX LEVY, Attorney for Defendants.

> > . . . . .

### Bond on Writ of Error.

And afterwards, to-wit on the 27th day of March, A. D. 1911, came the defendant, Emma Harris, alias Emma R. Smith, and filed in the Clerk's Office of the Court aforesaid, a certain Bond in this cause, which said Bond is clothed in the words and figures following, to-wit:

District Court of the United States, Southern District of Ohio, Western Division, ss.:

### No. 798.

### THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

Know All Men by These Presents:

That we, Emma Harris, alias Emma R. Smith, as principal, and Charles Albert and Moses Hirschman as sureties, are held and firmly bound unto the United States of America in the sum of Three

Thousand (\$3,000.00) Dollars, to be paid to the said The United States of America to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Scaled with our scals. Dated this 25th day of March, 1911. Whereas, the above named Emma Harris, alias Emma R. Smith.

has taken out a Writ of Error to the Circuit Court of Appeals of the United States for the Sixth Circuit to reverse the judgment rendered in the above entitled action by the District Court of the United States

for the Southern District of Ohio.

Now therefore, the condition of this obligation is such, that if the above named Emma Harris, alias Emma R. Smith, shall prosecute her said Writ of Error to effect and shall abide the judgment of the said Circuit Court of Appeals of the United States then this obligation to be void; otherwise to remain in full force and virtue.

EMMA R. SMITH. [SEAL.] EMMA HARRIS. CHAS. ALBERT. MOSES HIRSCHMAN.

Sealed and delivered in presence of MAX LEVY. HARRY F. RABE.

The above security is approved. HOWARD C. HOLLISTER, District Judge of the United States, S. D. O.

THE UNITED STATES OF AMERICA, Southern District of Ohio, 88:

I, Charles Albert, one of the sureties above named, do solemnly swear that after paying by just debts and liabilities, I am worth Fifteen Thousand (\$15,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District. CHAS. ALBERT.

Sworn to before me the 25th day of March, 1911. HARRY F. RABE. Deputy Clerk U. S. District Court, S. D. O. [SEAL.]

SOUTHERN DISTRICT OF OHIO, 88:

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I, Moses Hirschman, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Fifteen Thousand (\$15,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District. MOSES HIRSCHMAN.

Sworn to before me the 27th day of March, 1911. HARRY F. RABE, [SEAL.] Deputy Clerk U. S. District Court, S. D. O.

Bond on Writ of Error.

And afterwards, to-wit: on the same day, came the defendant, Bessie Green, by her Attorney and filed in the Clerk's Office of said Court, a certain Bond, clothed in the words and figures following, to-wit:

District Court of the United States, Southern District of Ohio, Western Division, as:

-No. 798.

THE UNITED STATES OF AMERICA

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN.

Know All Men by These Presents:

That we, Bessie Green, as principal, and Charles Albert and Moses Hirschman as sureties are held and firmly bound unto the United States of America in the sum of Three Thousand (\$3,000.00) Dollars, to be paid to the said The United States of America. To which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our Seals. Dated this 25th day of March, 1911. Whereas, the above named Bessie Green has taken out a Writ of Error to the Circuit Court of Appeals of the United States for the Sixth Circuit to reverse the judgment rendered in the above entitled action by the District Court of the United States for the Southern District of Ohio. Now, therefore, the condition of this obligation is such, that if the above named Bessie Green shall prosecute her said Writ of Error to effect and shall abide the judgment of the said Circuit Court of Appeals of the United States then this obligation to be void: otherwise to remain in full force and virtue.

BESSIE GREEN. CHAS. ALBERT. MOSES HIRSCHMAN.

Sealed and delivered in presence of-MAX LEVY. HARRY F. RABE.

The above surety is approved.

HOWARD C. HOLLISTER, District Judge of the United States, S. D. O.

UNITED STATES OF AMERICA, Southern District of Ohio, 88:

1, Charles Albert, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Fifteen Thousand (\$15,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District. CHAS. ALBERT.

Sworn to before me the 25th day of March, 1911. 75 HARRY F. RABE. Deputy Clerk U. S. District Court, S. D. O.

SOUTHERN DISTRICT OF OHIO, 45:

I, Moses Hirschman, one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Fifteen Thousand (\$15,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

MOSES HIRSCHMAN.

Sworn to before me the 27th day of March, 1911.

[SEAL.]

Deputy Clerk U. S. District Court, S. D. O.

United States District Court, Southern District of Ohio, Western Division.

No. 798.

THE UNITED STATES OF AMERICA

EMMA HARRIS, alies EMMA R. SMITH, and BESSIE GREEN.

United States of America, Southern District of Ohio, 88:

I, B. E. Dilley, Clerk of the Court aforesaid, do hereby certify that the foregoing is a true, correct and complete transcript of the record and proceedings had by and before said Court in the above entitled cause, as the same appear of record and on file in the Clerk's Office of said Court.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Court, at the City of Cincinnati, Ohio, this 20th day

of April, A. D. 1911.

SEAL.

B. E. DILLEY, Clerk, By HARRY F. RABE, Deputy.

Writ of Error.

United States Circuit Court of Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, Sixth Judicial Circuit, 88:

The President of the United States to the Honorable the Judge of the District Court of the United States for the Southern District of Ohio. Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between The United States of America and Emma Harris, alias Emma R. Smith, and Bessie Green, a manifest

error hath happened, to the great damage of the said Emma 76 Harris, alias Emma R. Smith, and Bessie Green as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Sixth Circuit, together with this writ, so that you have the same at Cincinnati, in said Circuit, on the\* 26th day of April next, in the

said Circuit Court of Appeals, to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, the 27th day of March, in the year of our Lord one thousand nine hundred eleven, and of the Independence of the United States of America the one hundred and thirty-fifth.

[SEAL.]

B. E. DILLEY,

Clerk of the District Court of the United States

for the Southern District of Ohio.

Allowed by

HOWARD C. HOLLISTER,

Judge of the District Court of the United States
for the Southern District of Ohio.

\*Not exceeding 30 days from the day of signing the citation.

United States Circuit Court of Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, Sixth Judicial Circuit, 88:

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States Circuit Court of Appeals for the Sixth Circuit, to be holden at the City of Cincinnati, in said Circuit, on the 26th day of April next, pursuant to a Writ of Error, filed in the Clerk's Office of the District Court of the United States for the Southern District of Ohio, wherein Emma Harris, alias Emma R. Smith, and Bessie Green are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the Judgment rendered against

said plaintiffs in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not

be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the United States, this 27th day of March, in the year of our Lord one thousand nine hundred and eleven, and of the independence of the United States of America the one hundred and the property.

HOWARD C. HOLLISTER,

Judge of the District Court of the United States
for the Southern District of Chio.

SHERMAN T. McPHERSON, United States Attorney in and for the Southern District of Ohio.

<sup>\*</sup>Not exceeding 30 days from the day of signing.

Service of the within citation is hereby acknowledged, and appearance entered on behalf of the United States of America in said proceedings in the U. S. Circuit Court of Appeals for the Sixth Circuit, this 28th day of March, 1911.

And afterwards towit on May 2 1911, præcipe for appearance of counsel was filed in said causes which reads and is as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2177.

EMMA HARRIS et al. vs. The U. S. of America.

Frank O. Loveland, Clerk of said Court:

Please enter my appearance as counsel for the plaintiff- in error.

MAX LEVY.

And afterwards towit on February 13 1912, an entry was made upon the Journal of said Court in said cause clothed in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2177.

EMMA HARRIS, alias EMMA R. SMITH, and Bessie GREEN vs.
UNITED STATES OF AMERICA.

and

#2178.

DELLA BENNETT
vs.
UNITED STATES OF AMERICA.

Before Warrington, Knappen, and Denison, C. JJ.

These causes are argued together by Mr. Max Levy for the plaintiffs in error and are continued until tomorrow for further argument.

And afterwards towit on February 14 1912, an entry was made upon the Journal of said Court in said causes which is in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2177.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN VS.
UNITED STATES OF AMERICA.

and

#2178.

DELLA BENNETT
VS.
UNITED STATES OF AMERICA.

These causes are further argued by Mr. Max Levy for the plaintiffs in error, and by Mr. Thomas L. Darby, Assistant United States Attorney, for the Defendant in error and are submitted to the Court.

And afterwards towit on March 5 1912, judgment was entered in these causes clothed in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2177.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN VS.
UNITED STATES OF AMERICA.

Error to the District Court of the United States for the Southern District of Ohio.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Southern District of Ohio and was argued by counsel.

On Consideration Whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court, in this

cause be and the same is hereby affirmed.

And on the same day, towit March 5 1912, an opinion was filed in said cause which reads and is as follows:

### Opinion.

Filed Mar. 5, 1912. Frank O. Loveland, Clerk.

United States Circuit Court of Appeals, Sixth Circuit.

No. 2177.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Plaintiffs in Error,

UNITED STATES OF AMERICA. Defendant in Error.

Error to the District Court of the United States for the Southern District of Ohio.

Submitted February 14, 1912: Decided March 5, 1912.

Before Warrington, Knappen, and Denison, Circuit Judges.

DENISON, Circuit Judge:

This case presents no question not disposed of by our opinion in the accompanying case of Bennett vs. United States, save this: Was respondent Harris entitled to an instructed acquittal because of the failure of sufficient evidence to support a verdict of guilty?

In this case, two women came from Charleston, West Virginia, and entered and remained for a time in the house of prostitution kept by Harris, in Cincinnati. There is no direct evidence that she had anything to do with inducing or aiding them to come; and support for this conclusion is to be found only in the circumstances. The evidence tended to show that respondent Green, an inmate of the same house went from Cincinnati to Covington, and then, after a couple of days, to Charleston, arriving there in the morning; that on the same afternoon, she started back for Cincinnati; that she furnished money to pay transportation for the two Charleston women who came with her; that they all went together to the Harris house the next morning; that a day or two later, the trunks of the Charleston women followed them to the Harris house with C. O. D. charges, including bills due from them to the keeper of the Charleston house of the same kind where they had been living: that Harris paid these C. O. D. charges and charged the same on her book against the Charleston women; and that such book, when later exhibited to them, also contained the charge for their railroad tickets from Charleston. Inasmuch as there was nothing unlawful, under this statute, in receiving these women or advancing the charges on their baggage, conviction must rest upon the theory that respondent Green went to Charleston and advanced the railroad fare while acting as the agent for the respondent Harris. This is explicitly denied by respondent Green, as a witness. The circumstances that she went away and soon returned with the other women is consistent with this

theory of guilt, but it is not seriously inconsistent with the theory that Green acted for herself only; and respondent's counsel therefore say that absolutely essential support for the verdict must be found, if at all, in the proof indicating that she charged this railroad fare against the Charleston women in her account with them; and further say that such evidence of this fact as appears in this case—the testimony of a witness with a grievance who claims to have seen the entry in a book not otherwise shown to exist-is evidence so easily fabricated and so far relates to a fact which might be consistent with innocence, that a verdict based thereon should not be allowed to This argument by respondents' counsel rests on a confusion between the fact and the evidence of that fact. The agency is the essential fact; the existence of the book entry is one item of evidence; and we do not feel at liberty to set aside the verdict in this case for this reason. We think the question whether, under all the evidence, Green was acting for Harris, was a question for the jury. The weakness of the proof of the book entry was to be considered in connection with all the circumstances, including Harris' occupation, the likelihood that she might desire and send for more inmates, the reasonableness of the story told by Green, and all the other surrounding facts. The keeper of such a resort who receives inmates, knowing that they have just come from another state and knowing the purpose for which they came, and who then advances them money incident to their journey, and who finds that a jury has concluded that she instigated the journey, cannot say that the verdict is without support because the jury's conclusion is drawn from circumstances which, in another environment, might not have led to the same inference. The probative force of such environment, as supporting or as contradicting the words of a witness, pertains to an issue of fact and not to one of law.

It follows that the conviction and sentence will be affirmed.

And afterwards towit on March 18, 1912, a petition for writ of error was filed in said cause clothed in the words and figures as follows:

# Supreme Court of the United States.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Plaintiffs in Error,

THE UNITED STATES OF AMERICA, Defendant in Error.

# Petition for Writ of Error.

Your petitioners, Emma Harris, alias Emma R. Smith, and Bessie Green, plaintiffs in error in the above entitled cause, respectfully show that the above entitled cause is now pending in the United States Circuit Court of Appeals for the Sixth Circuit, No. 2177, and that a judgment has therein been rendered on the 5th day of March, 1912, affirming a judgment of the District Court of the United States for the Southern District of Ohio, Western Division.

That the jurisdiction of none of the courts above mentioned is or was depending in anywise upon the opposite parties to the suit or controversy being aliens and citizens of the United States, or citizens of the different states; that the constitutionality of a Federal Statute is involved in this cause, and that it is a proper case to be reviewed by the Supreme Court of the United States upon writ of error; and therefore your petitioners would respectfully pray that a writ of error be allowed them in the above entitled cause, directing the Clerk of the United States Circuit Court of Appeals for the Sixth Circuit to send the record and proceedings in said cause with all things concerning the same, to the Supreme Court of the United States, in order that the errors complained of in the assignment of errors herewith filed by said plaintiffs in error may be reviewed, and if error be found, corrected according to the laws and customs of the United States, and for a stay of proceedings and stay of execution.

EMMA HARRIS, ALIAS EMMA R. SMITH, AND BESSIS GREEN, Plaintiffs in Error, By MAX LEVY, Their Attorney.

The foregoing petition is granted, and a writ of error allowed, as prayed for.

M'ch 12, 1912.

HORACE H. LURTON,
Justice Supreme Court of United States.

And on the same day, towit March 18, 1912, an assignment of errors was filed in said cause which is in the words and figures as follows:

Supreme Court of the United States.

EMMA HARRIS, alias EMMA R. SMITH, and Bessie Green, Plaintiffs in Error,

VS.

THE UNITED STATES OF AMERICA, Defendant in Error.

## Assignment of Errors.

And now comes the plaintiffs in error, Emma Harris, alias Emma R. Smith, and Bessie Green, and say that in the record and proceedings aforesaid in the United States Circuit Court of Appeals for the Sixth Circuit, No. 2177, in the above entitled cause, and in the rendition of the judgment therein, manifest error has intervened to the prejudice of said plaintiffs in error, in this, towit:

First. Said Circuit Court of Appeals erred in entering judgment affirming the judgment of the District Court of the United States for the Southern District of Ohio, Western Division, in favor of said

defendant in error, and against said plaintiffs in error.

Second. Said Circuit Court of Appeals erred in not reversing the said judgment of the United States District Court aforesaid, and in not remanding said cause to said District Court for a new trial.

Third. Said Circuit Court of Appeals erred in not sustaining the third assignment of error upon the record in said cause.

Fourth. Said Circuit Court of Appeals erred in not sustaining the twenty-first assignment of error upon the record in said cause.

Fifth. Said Circuit Court of Appeals erred in not sustaining the twenty-second assignment of error upon the record in said cause.

Sixth. Said Circuit Court of Appeals erred in not sustaining the twenty-third assignment of error upon the record in said cause.

Seventh. Said Circuit Court of Appeals erred in not sustaining the

twenty-fourth assignment of error upon the record in said cause. Eighth. Said Circuit Court of Appeals erred in rendering judgment against the plaintiffs in error, and in favor of said defendant

in error.

Wherefore, the said Emma Harris, alias Emma R. Smith, and Bessie Green, plaintiffs in error, pray that for the errors aforesaid, and other errors appearing in the record of said United States Circuit Court of Appeals, in the above entitled cause, to the prejudice of the plaintiffs in error, the said judgment of the said United States Circuit Court of Appeals be reversed, annulled, and for naught esteemed, and that said cause be remanded to the United States District Court for the Southern District with instructions to grant a new trial in said cause, or for such further proceedings in said cause as may be determined upon by this Honorable Court, to the end that justice may be done in the premises.

MAX LEVY, Attorney for Plaintiffs in Error.

And on the same day, towit on March 18, 1912, a bond was filed in said cause clothed in the words and figures as follows:

Know all men by these presents, That we, Emma Harris, alias Emma R. Smith & Bessie Green, as principals, and Maryland Casualty Company, as sureties, are held and firmly bound unto The United States of America in the full and just sum of Three Hundred dollars, to be paid to the said The United States of America, its certain attorney, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 13th day of March, in the

year of our Lord one thousand nine hundred and twelve.

Whereas, lately at a session of the United States Circuit Court of Appeals, 6th Circuit, in a suit depending in said Court, between Emma Harris, alias Emma R. Smith and Bessie Green, plaintiffs in error, and The United States of America, Defendant in error, a judgment was rendered against the said Emma Harris, alias Emma R. Smith and Bessie Green, and the said Emma Harris, alias Emma R. Smith and Bessie Green having obtained a writ of error and filed a copy thereof in the Clerk's office of the said Court to reverse the judgment in the aforesaid suit and a citation directed to the said The United States of America, citing and admonishing it to be and appear at a Supreme Court of the United States at Washington, within 30 days from the date thereof.

Now, the condition of the above obligation is such, That if the said Emma Harris, alias Emma R. Smith and Bessie Green shall prosecute their writ to effect, and answer all costs if they fail to make their plea good, then the above obligation to be void; else to remain in full force and virtue.

EMMA HARRIS.

EMMA R. SMITH. [SEAL.]

BESSIE GREEN. [SEAL.]

MARYLAND CASUALTY CO.,

By W. H. SARGENT,

Att'y-in-Fact. [SEAL.]

Sealed and delivered in the presence of

MAX LEVY. AGNES B. GRANT.

Approved by

HORACE H. LURTON,
Associate Justice of the Supreme Court
of the United States.

THE UNITED STATES OF AMERICA, Southern District of Ohio, Western Division, ss:

I, B. E. Dilley, Clerk of the District Court of the United States within and for the District and Division aforesaid, do hereby certify that, in my opinion, the within bond of Emma Smith and Bessie Green, with the Maryland Casualty Company, as surety, is sufficient.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at the City of Cincinnati, Ohio, this 13th day of March, A. D. 1912.

[SEAL.]

B. E. DILLEY, Clerk, By HARRY F. RABE, Deputy.

UNITED STATES OF AMERICA, 88:

The President of the United States to the Honorable the Judges of the United States Circuit Court of Appeals for the Sixth Circuit, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court of Appeals, before you, or some of you, between Emma Harris, alias Emma R. Smith, and Bessie Green, plaintiffs in error, and The United States of America, defendant in error, a manifest error hath happened, to the great damage of the said plaintiffs in error, as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ,

so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the 12th day of March, in the year of our Lord one

thousand nine hundred and twelve.

[Seal of the Supreme Court of the United States.]

JAMES H. McKENNEY, Clerk of the Supreme Court of the United States.

Allowed to operate as a supersedeas and the plaintiffs in error may be admitted to bail, upon filing the citation duly served, by the District Court, upon the execution of a bond in said Court conditioned as required by law in the sum of the bond under which they are now on bail.

HORACE H. LURTON,

Associate Justice of the Supreme Court

of the United States.

[Endorsed:] Filed Mar. 18, 1912. Frank O. Loveland, Clerk.

United States Circuit Court of Appeals for the Sixth Circuit, so:

In pursuance of the command of the within writ of error, I, Frank O. Loveland, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, do hereby transmit under the seal of said Court, a true, full and complete copy of the record and proceedings in said Court in the cause and matter in said writ of error stated; together with all things concerning the same, to the Supreme Court of the United States, together with said writ of error and the citation to said defendant in error.

Witness my official signature and the seal of said Court at Cincinnati, Ohio, in said Circuit, this 19th day of March, 1912.

[Seal United States Circuit Court of Appeals, Sixth Circuit.]

FRANK O. LOVELAND,

Clerk United States Circuit Court of Appeals
for the Sixth Circuit.

UNITED STATES OF AMERICA, 88:

To The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the Clerk's Office of the United States Circuit Court of Appeals for the Sixth Circuit, wherein Emma Harris, alias Emma R. Smith, and Bessie

Green are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Horace H. Lurton, Associate Justice of the Supreme Court of the United States, this 12th day of March, in the year of our Lord one thousand nine hundred and twelve.

HORACE H. LURTON.

Associate Justice of the Supreme Court of the United States.

MARCH 18", 1912.

I hereby acknowledge service of a true copy of the within Citation.

SHERMAN T. McPHERSON, United States Attorney, S. D. O.

United States Circuit Court of Appeals for the Sixth Circuit.

I, Frank O. Loveland, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, do hereby certify that the foregoing is a true and correct copy of record and proceedings in the case of Emma Harris, alias Emma R. Smith and Bessie Green vs. The United States of America No. 2177, as the same remains upon the files and records of said United States Circuit Court of Appeals for the Sixth Circuit, and of the whole thereof, together with the original writ of error and citation.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said Court, at the City of Cincinnati, Ohio, this

19th day of March A. D. 1912.

[Seal United States Circuit Court of Appeals, Sixth Circuit.]

FRANK O. LOVELAND,

Clerk of the United States Circuit Court of
Appeals for the Sixth Circuit.

[16886]

94 Supreme Court of the United States, October Term, 1911.

No. 1067.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN, Plaintiffs in Error,

THE UNITED STATES OF AMERICA.

On Petition for Writ of Certiorari to the United States Circuit Court of Appeals for the Sixth Circuit.

On consideration of the petition for a writ of certiorari herein to the United States Circuit Court of Appeals for the Sixth Circuit, and of the argument of counsel thereupon had, as well in support of as against the same, it is now here ordered by the Court that the said petition be, and the same is hereby, granted, and that the transcript of record heretofore filed be taken as a return to the writ.

May 13, 1912.

Endorsed on cover: File No. 23,143. U. S. Circuit Court Appeals, 6th Circuit. Term No. 602. Emma Harris, alias Emma R. Smith, and Bessie Green, plaintiffs in error, vs. The United States of America. Filed April 1st, 1912. File No. 23,143.

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# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1912.

No. 603.

DELLA BENNETT, PLAINTIFF IN ERROR AND PETI-TIONER,

228.

# THE UNITED STATES OF AMERICA.

IN ERROR TO AND ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

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United States Circuit Court of Appeals, Sixth Circuit.

No. 2178.

DELLA BENNETT, Plaintiff in Error,
vs.
UNITED STATES OF AMERICA, Defendant in Error.

Error to the District Court of the United States for the Southern District of Ohio.

Record. .

Original Transcript Filed April 21, 1911.

Transcript of Record.

No. 797.

THE UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, 88:

In the District Court of the United States within and for the District and Division Aforesaid.

Present, the Honorable Howard C. Hollister, District Judge.

Among the proceedings had were the following, to-wit:

Criminal. No. 797.

THE UNITED STATES OF AMERICA VS.
DELLA BENNETT.

Indictment.

Be it remembered that on the 9th day of February in the year of our Lord one thousand nine hundred and Eleven, came the Grand Jurors of the United States of America, duly empaneled within and for the District and Division aforesaid, and presented their certain Bill of Indictment, which said Bill of Indictment is clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA, Western Division of the Southern District of Ohio, sa:

In the District Court of the United States within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the term of February, in the year of our Lord one thousand nine hundred and eleven.

1st Count. Sec. 2-Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

The Grand Jurors of the United States of America, duly empaneled, sworn and charged to inquire within and for the Western Division of said district, upon their oaths and affirmations, present -Della Bennett, on or about, to-wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this Court. did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for and in transporting in interstate commerce, to-wit, from the City of Chicago. in the State of Illinois, to and into the City of Cincinnati, in the

County of Hamilton and State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, two certain women, to-wit, Opai Clark and Eva Parks, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Della Bennett that said Opal Clark and Eva Parks, and each of them, would and should in said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2nd Count. Sec 2, Act of June 25, 1910, 36 Stat., 825; "White-

Slave Traffic Act."

And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Della Bennett, on or about, to-wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio. in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained, at the City of Chicago, in the State of Illinois, two certain railroad passenger tickets from the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, then and there a common carrier of passengers, engaged in interstate commerce; each of which said tickets was then and there good for transportation for one person from said City of Chicago, in the State of Illinois, to the City of Cincinnati, in the State of Ohio, upon and over the line and railroad route of said Railway Company,-with the purpose and intention that said tickets should be used by two certain women, to-wit, Opal Clark and Eva Parks, in interstate commerce, to-wit, in going from said City of Chicago, in the State of Illinois, to said City of Cincinnati, in said State of Ohio, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Della Bennett that each of said women, to-wit, Opal Clark and Eva Parks, would and should, in said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain,—whereby and with the means and by the use of said tickets, said Opal Clark and said Eva Parks were then and there and thereupon carried and transported as passengers in interstate commerce, over and upon the railway route and line of said railway Company, to-wit, from said City of Chicago, in the State of

3 Illinois, to and into said City of Cincinnati, in the State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States

of America.
3rd Count. Sec. 3. Act of June 25, 1910, 36 Stat. 825; "White-

Slave Traffic Act." And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Della Bennett, on or about, to-wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the County of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded induced and enticed, two certain women, to-wit, Opal Clark and Eva Parks, to go from one place, to-wit the City of Chicago, in the State of Illinois, to another place, to-wit, the City of Cincinnati, in the State of Ohio, within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Della Bennett, that each of said women, to-wit, Opal Clark and Eva Parks, would and should in the said City of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, with the consent of said Opal Clark and Eva Parks; and did then and there and thereby knowingly cause and aid and assist in causing said women, to-wit, Opal Clark and Eva Parks, to go and be carried and transported in interstate commerce, as passengers, upon and over the railway route and line of The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, a common carrier engaged in interstate commerce, to-wit, from the said City of Chicago, in the State of Illinois, to and into the said City of Cincinnati, in the State of Ohio, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America. SHERMAN T. MCPHERSON,

United States Attorney, S. D. O.

The following endoresement appears on the back of said Indict-

A true bill.

WM. H. DAVIS, Foreman.

Entry, 10-310.

And afterwards, to-wit: on the same day, an Entry was made upon the Journal of said Court in said cause, which said Entry is clothed in the words and figures following, to-wit:

No. 797.

THE UNITED STATES OF AMERICA
VS.
DELLA BENNETT.

This day came the District Attorney on behalf of the United States, and the said defendant, Della Bennett, being present in Court in pursuance of the tenor of her recognizance as given before the United States Commissioner for her appearance on this day; upon motion of the District Attorney, it is ordered that the said defendant, Della Bennett, enter into a recognizance before this Court in the sum of Three Thousand Dollars (\$3,000.00) for her appearance before this Court from day to day as may be required.

### Recognizance.

And afterwards, to-wit: on the same day, the following Recognizance was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,
Southern District of Ohio, 88:

Be it remembered, that on this 9th day of February, A. D. 1911, before me B. E. Dilley, Clerk of the United States District Court, within and for the district aforesaid, duly appointed as such by the said Court personally came Della Bennett as principal and John T. Patterson and Fisher Bachrach as sureties and jointly and severally acknowledged themselves to owe the United States of America in the sum of Three Thousand (\$3,000.00) Dollars, to be levied on their goods and chattels, lands and tenements, if default be made in the condition following, to-wit:

The condition of this recognizance is such, that if the said Della Bennett shall personally appear before the District Court of the United States, in and for the District aforesaid, at Cincinnati, Ohio, from day to day as may be required and then and there to answer unto an indictment pending therein for violation of Secs. 2-3 Act of June 25, 1910, 36 Stat. 825, and then and there abide the further

order of said Court, and not depart without leave thereof then this recognizance to be void; otherwise to remain in full force and virtue.

DELLA BENNETT. [SEAL.]
J. T. PATTERSON.
FISHER BACHRACH.

Taken and acknowledged before me on the day and year first above written.

[SEAL.] B. E. DILLEY,

Clerk U. S. District Court, Southern District of Ohio.

UNITED STATES OF AMERICA, Southern District of Ohio, ss:

I, John T. Patterson one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Six Thousand (\$6,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

J. T. PATTERSON.

Sworn to before me the 9th day of February, 1911.

[SEAL.] HARRY F. RABE,
Deputy Clerk U. S. District Court, S. D. O.

SOUTHERN DISTRICT OF OHIO, 88:

I, Fisher Bachrach one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Six Thousand (\$6,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

FISHER BACHRACH.

Sworn to before me the 9th day of February, 1911.

[SEAL.] HARRY F. RABE,
Deputy Clerk U. S. District Court, S. D. O.

### Motion to Quash.

And afterwards, to-wit: on the 11th day of February, A. D. 1911, came the Defendant by her Attorney and filed in the Clerk's Office of said Court, a certain Motion to Quash, in this cause, which said Motion to Quash is clothed in the words and figures following. to-wit:

United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, DELLA BENNETT, Defendant.

Motion to Quash.

And now comes Della Bennett, defendant herein, and moves the Court to quash each and every count of the indictment for the following reasons, to-wit:

First. Because the same is so vague, indefinite and uncertain as not to thoroughly advise the accused with what she stands charged. Second. Because each of the three counts in the indictment charge

the defendant with more than one offense.

Third. Because each of the counts in the indictment does not charge the defendant with a crime against any law of the United States.

MAX LEVY. Attorney for Defendant.

### Demurrer.

And afterwards, to-wit: on the same day, the following Demurrer was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, DELLA BENNETT. Defendant.

#### Demurrer.

Now comes Della Bennett, defendant herein, and demurs to each of the three counts in the indictment, separately and jointly, for the following reasons, to-wit:

First. Because the facts stated therein do not constitute an offense

punishable under the laws of the United States.

Second. Because the Act of June 25, 1910, 36th Statute, 825, known as the "White Slave Traffic Act," for the violation of the provisions of which Statute the Indictment against this defendant is based, is unconstitutional and void.

Third Because each of said Counts in the Indictment charges

this defendant with more than one offense.

Fourth. Because the intent is not alleged in the various counts in the Indictment, proof of such intent being necessary to make out the offenses charged.

MAX LEVY, Attorney for Defendants.

#### Entry, 10-317.

And afterwards, to-wit: on the 14th day of February, A. D. 1911, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, vs.
DELLA BENNETT, Defendant.

Entry Overruling Motion to Quash.

This cause coming on to be heard upon the motion to quash the indictment herein, on the arguments of counsel, and the Court being fully advised in the premises, finds said motion to be not well taken, and overrules the same, to all of which the defendant through her counsel excepts.

# Entry, 10-317.

And afterwards, to-wit: on the same day, an Entry was made upon the Journal of said Court, in said cause, which said Entry is clothed in the words and figures following, to-wit:

#### No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, vs.
Della Bennett, Defendant.

Entry Overruling Demurrer.

This day this cause came on for hearing upon the demurrer of the defendant to the indictment heretofore found herein, and was argued by counsel and submitted to the Court, and upon consideration, the Court finds that the demurrer is not well taken, and does overrule the same, to which finding and overruling the defendant through her counsel excepts.

### Entry, 10-324.

And afterwards, to-wit: on the 20th day of February, A. D. 1911, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

# THE UNITED STATES OF AMERICA V8. DELLA BENNETT.

This day this cause came on to be heard and came the defendant pursuant to the tenor of her recognizance as heretofore given, and by her Attorneys, and came the District Attorney on behalf of the United States; and the said defendant, Della Bennett having been arraigned and said Indictment read to her for plea says she is not guilty in manner and form as charged in said Indictment — for trial puts herself upon the Country and the District Attorney doth the like.

Whereupon to try the issues joined a Jury being called came, to-wit: Oliver Keller, James V. Bonnell, Kemp Coffee, Monte Coffin, James W. Pierce, C. F. Faris, David Mote, Albert Thomas, W. S. Anderson, Charles Street, John Duis, Harry W. Dickensheets, who were duly empaneled and sworn herein well and truly to try the issues joined; and having heard the testimony, the arguments of counsel and the charge of the Court, the said Jury retired to their room attended by an officer of this Court to deliberate upon a verdict. And after due deliberation the said Jury returned the

following verdict, to-wit:

We, the Jury herein do find the defendant, Della Bennett, guilty in manner and form as charged in the three counts of said Indictment.

(Signed)

DAVID MOTE, Foreman.

To all of which the said defendant by her counsel excepts, and gives notice of a motion for a new trial.

Whereupon the District Attorney moving for sentence the Court, the Court, after due consideration deferred sentence until Thursday morning, February 23rd, at ten o'clock, at which time the said defendant is ordered to be present.

### Order, 10-326.

And afterwards, to-wit: on the 23rd day of February, A. D. 1911, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 797.

# THE UNITED STATES OF AMERICA VS. DELLA BENNETT.

DELLA BENNETT.

This day this cause came on to be heard, and came the said defendant, Della Bennett, pursuant to the tenor of her recognizance,

and the District Attorney on behalf of the United States;

Thereupon the District Attorney moving for sentence the Court pronounced the following sentence to-wit: That the said defendant, Della Bennett, be confined in the County Jail of Miami County, Ohio for a period of eleven months, and that she pay the costs of prosecution.

#### Motion.

And afterwards, to-wit: on the same day, came the defendant, by her Attorney and filed in the Clerk's Office of the Court aforesaid, a certain Motion in Arrest of Judgment, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

#### No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, Vs.
DELLA BENNETT, Defendant.

Motion in Arrest of Judgment.

Now comes the said Della Bennett, and moves the Court to arrest judgment in this cause for the following causes, to-wit:

First. That the facts stated in the indictment do not constitute an offense against the laws of the United States of America.

Second. That the Statutes which the defendant was charged with violating are unconstitutional.

Third. Because the intent charged against the defendant in each of the Counts of the Indictment is not a criminal intent.

MAX LEVY, Attorney for Defendant.

# Motion for a New Trial.

And afterwards, to-wit: on the same day, came the defendant by her Attorney and filed in the Clerk's Office of the Court aforesaid, a certain Motion for a New Trial in this cause, which said Motion for a New Trial is clothed in the words and figures following, to-wit: United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, vs.
DELLA BENNETT, Defendant.

Motion for a New Trial.

Now comes the defendant, and moves the Court to set aside the verdict heretofore rendered by the Jury, and the judgment herein rendered by the Court, and for a new trial for the following reasons, to-wit:

1st. The Court erred in overruling the motion to quash the indictment.

2nd. The Court erred in overruling the demurrer to the indict-

3rd. The Court erred in the admission of testimony offered by the Government over the objection and exception of the defendant.

4th. The Court erred in refusing the motion of the defendant, at the close of the testimony of the prosecution, to instruct the Jury to return a verdict of not guilty.

5th. The Court erred in refusing to admit testimony offered by the defendant and excepted to at the time by the defendant.

. 6th. The Court erred in refusing to give the special charges to the Jury requested by the defendant.

7th. The Court erred in its charge to the jury.

8th. The Court erred in overruling to motion in arrest of judgment.

MAX LEVY, Attorney for Defendant.

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Entry, 10-327.

And afterwards, to-wit: on the same day, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

Entry.

No. 797.

THE UNITED STATES OF AMERICA

DELLA BENNETT.

This cause coming on to be heard upon the motion in arrest of judgment, the Court upon consideration thereof, overrules the same, to which ruling the defendant excepts.

And afterwards, to-wit: on the same day, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

Entry.

No. 797.

THE UNITED STATES OF AMERICA VS.
DELLA BENNETT.

This cause coming on to be heard upon the motion of the defendant to set aside the verdict of the jury and the judgment of the Court, and for a new trial, and upon the arguments of counsel, and the Court being fully advised in the premises, overrules the same, to

which ruling of the Court defendant excepts.

And the defendant, Della Bennet, through her counsel, having given notice of her intention to file a petition in error to the Circuit Court of Appeals, it is on motion ordered that the execution of the sentence and judgment herein against the said defendant be suspended, and that the said defendant enter into a recognizance with security to the approval of the Clerk of this Court in the sum of \$3,000.00, conditioned according to law for her appearance, from day to day hereafter, until such suspension shall be disposed of, and to abide the further orders of this Court.

Recognizance.

WELL C THUDE

And afterwards, to-wit: on the same day the following Recognizance was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,
Southern District of Ohio, 38:

Be it remembered, that on this 23rd day of February A. D. 1911 before me, B. E. Dilley, Clerk of the United States District Court, within and for the District aforeaforesaid duly appointed as such by the said Court personally came Della Bennett as principal and John T. Patterson and Hattie Fuller as sure-

principal and John T. Patterson and Hattie Fuller as surcties, and jointly and severally acknowledged themselves to owe the United States of America in the sum of Three Thousand and no-100 (\$3,000) Dollars, to be levied on their goods and chattels, lands and tenements, if default be made in the condition following, to-wit

The condition of this recognizance is such, that if the said Della Bennett shall personally appear before the District Court of the United States, in and for the District aforesaid, at Cincinnati, Ohio, from day to day hereafter as the Court may order, pending the filing and allowance of a petition for writ of error to the United States Circuit Court of Appeals for the Sixth Judicial Circuit, in cause No. 797 entitled The United States of America, vs. Della Bennett, and abide the judgment of this Court, to-wit: That said defendant, Della Bennett, be confined in the Jail of Miami County, Ohio, for the period of Eleven (11) months and that she pay the costs of this prosecution, and then and there abide the further order of said Court, and not depart without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

DELLA BENNETT. [SEAL.]
J. T. PATTERSON. [SEAL.]
HATTIE FULLER. [SEAL.]

Taken and acknowledged before me on the day and year first above written.

B. E. DILLEY,
Clerk U. S. District Court, Southern
District of Ohio, Western Division,
By HARRY F. RABE,
Deputy Clerk.

[SEAL.]

SEAL.

United States of America, Southern District of Ohio, 88:

I, John T. Patterson one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Six Thousand (\$6,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

J. T. PATTERSON.

Sworn to before me the 23rd day of February, 1911.

[SEAL.] HARRY F. RABE.

Deputy Clerk U. S. District Court, S. D. O.

SOUTHERN DISTRICT OF OHIO, 88:

I, Hattie Fuller one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Ten Thousand (\$10,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

HATTIE FULLER.

Sworn to before me the 23rd day of February, 1911.

HARRY F. RABE,
Deputy Clerk U. S. District Court, S. D. O.

Order, 10-339.

And afterwards, to-wit: on the 21st day of March, A. D. 1911, an Order was made upon the Journal of said Court in said cause, which said Order is clothed in the words and figures following, to-wit:

#### No. 797.

# THE UNITED STATES OF AMERICA Tru.

DELLA BRNNETT.

This day came the defendant, Della Bennett, by her Attorneys, and presented her Bill of Exceptions, and the same being examined and found to be true, is hereby allowed, signed, sealed, ordered to be and the same is hereby made part of the record of this cause and filed as provided by law.

#### Bill of Exceptions.

United States District Court, Southern District of Ohio, Western Division.

# UNITED STATES OF AMERICA, Plaintiff, DELLA BENNETT, Defendant.

Be it remembered that this cause came on for hearing on Monday morning, February 20, 1911, before Hon. Howard C. Hollister, Judge; the United States of America being represented by Messrs. Sherman T. McPherson and Thomas Darby; the defendant being present in person and represented by Mr. Max Levy, when the following proceedings were had:

Thereupon the defendant, through her counsel, moved the Court, before the empanelling of the jury, that the United States of America be required to elect which counts of the indictment it will try the

defendant on.

This motion, the Court, upon consideration, overruled, to which action of the Court defendant, through her counsel, then and there duly excepted.

Thereupon the defendant, Della Bennett was arraigned and

entered a plea of not guilty.

Thereupon the jurors were sworn on their voir dire.

E. C. Fulton, a talesman, was examined on his voire dire as follows:

#### 13 By Mr. LEVY:

Q. Where do you live?

A. Near Peebles, Adams County.

Q. Are you a married man or single?

A. Yes, sir.

Q. May I ask you your age?

A. 42 years old.

Q. Have you been watching these white-slave cases as they have been tried within the last few days?

A. I was present as a spectator in Court.

Q. Have you any prejudice or would you have any prejudice against a person who is charged with a crime of this kind?

A. No. sir.

Q. Have you any prejudice against a woman who is the proprietor of a house of this character?

A. I have no admiration for a person of that type. Q. I understand, but have you any prejudice?

A. Not enough to influence me or my decisions, I believe.

Q. Could you start out in the trial of the case with the presumption that this woman is innocent of the charge and have that presumption remain with you until she is proven guilty by the testimony?

A. Yes, sir; I can.

Q. You could do that? A. Yes, sir.

Q. You say you have no admiration for a woman engaged in a business of that kind?

A. No. sir.

Q. And she then already stands prejudiced in your eyes, does

A. I have no respect for a person of that kind. Q. You have no respect for a person of that kind?

A. No. sir.

Q. Then it would be a difficult thing for you to sit on this Jury and conscientiously try this case?

A. I believe that would bias me to a certain extent.

Q. It would bias you?

A. Yes, sir.

Talesman challenged for cause by counsel for defendant.

#### By Mr. DARBY:

Q. Mr. Fulton, any person without regard to whom he or she may be, or without regard to the character of offense which may be charged is presumed to be innocent of the charge; and in this case

the court will instruct you that is the law and that you would not be authorized to sit as a juror and to cast a vote against

14 the defendant until that presumption is removed and you are satisfied from the evidence, beyond a reasonable doubt that she is shown guilty; now that being the law and being so stated by the Court to you do you still feel you would have any prejudice at the outset of this case it the absence of any testimony at all?

A. I would go under the evidence presented here.

Q. And under the instructions of the Court?

Q. Then whether the woman is engaged in a business that you don't admire you would still be able to give her a fair trial?

A. Yes, sir.

Q. The same as if it were a burglar you would try him fairly though he happens to be a burglar?

A. Yes, sir.

Challenge overruled; exception noted by counsel for the defendant.

(After the examination of the second talesman, Mr. Kemp Coffee, Mr. Fulton was re-examined as follows:)

By Mr. LEVY:

Q. Mr. Fulton, have you read the newspapers about trials of this kind?

A. Yes, sir.

Q. And have you formed an opinion about these cases?

Objected to: objection sustained.

Q. Have you any opinion as to the guilt of these persons, or of this person by reason of what you have read in the newspapers or what you have seen?

Objected to; objection sustained.

Q. Mr. Fulton from what you have heard of these cases and what you have read in the papers, have you formed an opinion as to the guilt of this person?

Objected to: objection overruled.

A. No, sir. Q. You have not? A. No, sir.

The COURT:

Q. Mr. Fulton, could you give this defendant as fair a trial as you could give any person who happens to be charged with an offense against the law?

A. Yes, sir; I can.
Q. Without any further prejudice against her than you would have against anybody charged with a crime?

A. Yes, sir.
Q. You feel in your own heart that you could give her a 15 fair trial?

A. I feel that way.

Q. And until she is convicted by the testimony beyond a reasonable doubt?

A. Yes, sir; I do.

M. B. Coffin, a talesman, was examined on his voir dire as follows:

By Mr. DARBY:

Q. Where do you live: A. Clinton County.

Q. And your business?

A. Farmer.
Q. Were you able to hear the statements I made to the gentleman in the box?

A. Yes, sir.

Q. Do you know anything about the case?

A. I do not.

Q. Or are you in any way connected with the Attorneys in the case?

A. No, sir.

Q. Have you any prejudice of any kind?

A. I don't love a woman running a house of this kind.

Q. But the charge is not that the woman runs the house, and it would make no difference whether she runs the house or not; the charge is that she caused to be brought from Chicago to this city two women who should engaged in the business of prostitution here; now would you have any prejudice against her or anybody in advance of the hearing of the evidence?

A. No. sir.

# By Mr. LEVY:

Q. What is your first name?

A. M. B. Coffin.

Q. And you live where?

A. Clinton County. Q. Your age? A. 43.

Q. Are you married?

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A. Yes, sir. Q. You say you are prejudiced against a woman running a house of this kind?

A. Yes, sir.

Q. And where a woman running a house of this kind is on trial you would have conscientious scruples against her?

A. I would be guided by the evidence.

Q. I say would you have conscientious scruples against her?

A. Not particularly. Q. You would not?

A. No, sir.

- Q. Could you go into the trial of this case, Mr. Coffin, with the presumption that this woman is innocent of this charge?
- A. Yes, sir. Q. And notwithstanding the prejudice you have, would you resolve any doubt which may arise in the trial of this case in her favor?

A. As I said before I would be guided by the evidence.

Q. You probably don't understand me; In case there is any reasonable doubt arising in the trial of this case would you resolve that doubt in favor of this defendant?

A. Yes, sir.

Q. Regardless of what her vocation in life is?

Q. And notwithstanding her vocation in life you would sit in A. Yes, sir, judgment and give her an absolutely fair and honest and impartial trial?

A. Yes, sir. Q. You would set aside your prejudice against her?

A. Yes, sir.

Q. Do you belong to any society where this question has been discussed?

A. I do.

Q. Have you any opinion on the question? A. No, I have not; I have never heard this kind of a case discussed in the society.

Q. What has been the nature of the discussion? A. Well, I don't know; it has been a good while since we had any

meeting.

Q. Where the question of the suppression of prostitution was dis-

cussed?

A. Yes; I believe so.

Q. And you have then taken part in those discussions?

A. No, sir.

Q. Have you formed an opinion as to that?

A. I have not.

Q. And notwithstanding your membership in a society of that character do you think you could give this defendant a fair and impartial trial?

A. Well, I belong to the Methodist Episcopal Church, and have heard the question discussed in the Conference here in Cincinnati within the last year; that is the only time I ever heard it discussed.

Q. And you think notwithstanding that you could give the defendant a fair, honest and impartial trial?

A. I would be guided by the evidence.

Q. Then you think you could sit in the trial of this case as an impartial juror?

A. I believe that I could; when I say that I mean yes,

Talesman challenged for cause by counsel for defendant; challenge overruled; exception noted by counsel for defendant.

# By the COURT:

Q. You say you have some prejudice against the business; is your prejudice against the business also a prejudice against the person?

A. No, gir. Q. Then I understand you to say that your prejudice is against

the business of keeping places of this kind?

A. Yes, sir. Q. But not against the person?

A. Yes, sir.

### By Mr. DARBY:

-. Mr. Coffin, in this particular case the fact that you might have a prejudice against this business would that cause you to have any prejudice against this defendant?

A. No, sir.

Challenge overruled; exception noted by counsel for defendant.

Thereupon the Jury was sworn.

Thereupon the case was stated to the Jury by both the counsel for the prosecution and the defendant.

Thereupon the United States of America, to maintain the issues on its part called as a witness, OPAL CLARK, who being first duly sworn testified as follows:

#### Direct examination by Mr. DARBY:

Q. What is your full name?

A. My name is Opal Clark. Q. Where do you live? A. My home is in Canada.

Q. When did you come to Cincinnati the last time? A. On or about the first of October.

Q. Where did you come from, what city?

A. I came from Chicago, Illinois, to Cincinnati. Q. That is Cincinnati, Ohio; to this City?

A. Yes, sir. Q. Had you lived in Cincinnati prior to coming here in 18 October of 1910?

A. Beg pardon?

Q. Had you been in Cincinnati before October 1910? A. Yes, sir.

Q. Did you know Della Bennett, the defendant in this case?

A. Yes, sir; I knew her.

Q. When did you first make her acquaintance?

A. In 1910 about. Q. In what month?

The Court: Will you speak out louder?

A. In the year 1910 about the last of February.

# By Mr. DARBY:

Q. Did you at any time, live in her house in February of 1910?

A. Yes sir; for a few weeks.

Q. In what business were you engaged at her house at that time? A. Well, I was a sporting girl.

Q. What was the character of the house that she kept at that time?

A. Sporting house. Q. Did you make your livelihood in that way while you were living in her house—living in that way?

A. Yes, sir.

Q. Now, when if ever did you leave the house of Miss Bennett in 1910, before October?

A. I left it for five weeks after I was there.

Q. Well, could you give about the date at which you left?

A. No, sir.

Q. After you left her house where did you go?

A. Went to Chicago.

Q. What was your address in Chicago? A. I went to 2017 Armour Avenue.

Q. After that did you go to any other address in Chicago? A. Yes, sir; we went to a flat.

Q. Where was that?

A. 5 West Twenty-first street.

Q. What was the number of that flat? A. The second flat.

Q. While you were at that flat did you get any letters, or have any correspondence with Miss Bennett?

A. Yes, sir; I had letters on about every week.

19 Q. I show you a letter which consists of three pages, marked 1, 2, and 3, dated Cincinnati, Ohio, June 26, 1910, directed to "Dear Jeanette" and signed "Your friend, Della," and ask you if you received that letter at Chicago at that address?

A. Yes, sir.

Objected to by counsel for defendant.

Q. You received that at that address at Chicago?
A. Yes, sir.

Q. Do you know in whose handwriting that envelop and letter are?

(Handing letter to Mr. Levy.)

Q. Will you answer the question as to whose handwriting the letter and envelop are?

A. Miss Bennett.

Q. When you say "Miss Bennett" whom do you mean?
A. The woman sitting there.
Q. That is the defendant in the case?

A. Yes, sir.

Mr. DARBY: We desire to offer in evidence the letter and the en-

velope.

Counsel for defendant objects because the letter itself shows that no letter was sent to Opal Clark which is the name this woman is mentioned by in the indictment and the indictment shows that Opal Clark was the person who was transported.

- Q. You have given your name as Opal Clark, is that your name?
  A. That is the name I have taken along before Christmas.
- Q. You took that name—were you known as Jeanette Clark? A. Yes, sir.

Q. Are you the person, Jeanette Clark, to whom these letters were written?

A. Yes, sir.

Q. And did Miss Bennett know you by the name of Opal Clark? A. No, sir; I don't think she knew me by that name.

The COURT:

Q. What name did you go by when you lived with her?

A. I went by the name of Jeanette.

Q. But you are the person who was living at Flat No. 2, 5 West Twenty-first street?

A. Yes, sir.

20 By Mr. DARBY:

Q. Did you answer some of the letters you received from her?

A. Yes, sir

Q. And got replies to them?

A. Yes, sir.

(Counsel for defendant renews his objection.)
(Objection overruled; defendant excepts.)

Mr. DARBY: The envelope is addressed to "Miss Jeanette Clark

5 West 21st Street, Flat 2, Chicago, Illinois."

Mr. LEVY: I would like to before the letter is introduced have the witness qualified as to the handwriting of the defendant in this case.

Motion overruled; exception noted.

Mr. DABRY: The letter is in these words:

CINCINNATI, OHIO, July 26th, 1910.

DEAR JEANETTE: I will answer your most welcome letter which I received the other day. I am ashamed for not answering sooner, but

I have been so busy.

Your friend. DELLA.

Give Joy my best, tell her to write."

Mr. Levy: I move that the letter be stricken from the record.

Motion overruled; exception noted.

Envelope was marked by stenographer, "Ex. 1."

The first sheet of letter "Ex. 2" the second sheet of letter "Ex. 2-a" the third sheet of letter "Ex. 2-b."

It is agreed between counsel that copies of the envelope and letter may be made and attached to this Bill of Exceptions, in lieu of the original; the said copies are hereto attached and made part hereof. Said originals shall be presented to the Circuit Court of Appeals.

Q. Mr. Clark, I will ask you to look at this letter, which is dated "Cincinnati. Ohio, August 3, 1910, directed to "Dear Jeanette" and signed "Miss Della Bennett, 525 George Street" and also the envelope and ask you to state if you know whose handwriting that is?

A. It looks to be in her handwriting.

Mr. LEVY: I didn't hear the answer.

A. It looks to be her handwriting only in ink.

By Mr. DARBY:

Q. Will you say to the best of your judgment-give your best judgment as to whether or not that is or - not her handwriting?

Objected to by counsel for defendant.

Q. State whether or not, that is the handwriting of Miss Bennett, the defendant?

A. Yes, sir; I think it is. Mr. Levy: What's the answer?

A. I think it is

Objected to by counsel for defendants and motion made to strike out.

The COURT: The question is, whether that is her handwriting, is it, or not?

A. Yes, sir; it is; only in ink.

Mr. DARBY: We offer in evidence, envelopes addressed to Miss Jeanette Clark, Flat 2-5 West 21st Street, Chicago, Illinois, and postmarked "Cincinnati, Ohio, August 4, 1910; and the letter as

Counsel for defendant objects to the introduction of the letter; objection overruled; exceptions noted by counsel for defendant,

Mr. DARBY (reading):

CINCINNATI, O., Aug. 3d, 1910.

DEAR JEANETTE: I just received your card we are all well and hope this letter will find you the same well Jeanette. I wish you would hurry and come back we are all lonesome to see you. rouse was in the other night and gave me 50c for you to have a drink when you now come soon will you. bring another girl with you or more if you can. Idabelle has been sick but is feeling better now. now Jeanette be sure and come back soon. I will close hoping to hear from you soon and make up your mind to come back soon 1 will close good-by your friend.

MISS DELLA BENNETT. 525 George Street.

Come back soon.

22 Envelope was marked by the stenographer: "Ex. 3". First page of letter was marked "Ex. 3-a" second page of letter was marked "Ex. 3-b".

By agreement of counsel copies are substituted for the originals,

the same are hereto attached and made part hereof.

Counsel for defendant moved the Court that the letter be stricken from the record; motion overruled; exception noted by counsel for defendant.

Q. Had you written a card to her?

A. I had written a card to her saying I had received her letter.

Q. And this letter came afterwards?

A. Yes, sir.

Q. I will ask you to look at this. I show you a letter and envelope; the envelope being post-marked "Cincinnati, O., Aug. 11, 1910" directed to "Miss Jeanette Clark, 5 W. 21st St., Chicago, Ill., Flat 2" and the letter dated "August 10, 1910 directed "Dear Friend Jeanette" and signed "Your friend Della" and ask you if you know in whose handwriting those papers are?

A. Miss Della.

Q. By that you mean whom?

A. Miss Della Bennett.

Q. This defendant?

A. Yes, sir.

Mr. DARBY: We offer them in evidence.

To the introduction of the envelope and letter Counsel for defendant objects; objection overruled; exception noted by counsel for

defendant

Envelope was here marked by the stenographer: "Ex. 4" the first page of letter "Ex. 4-a" the second page of letter "Ex. 4-b". By agreement of counsel copies are substituted for the originals, the same are hereto attached and made part hereof.

Mr. Darby: The envelope is post-marked "Cincinnati, O., Aug. 11, 1910;" directed to "Miss Jeanette Clark No. 5 W. 21st St., Chicago, Ill., Flat 2". The letter is as follows:

CINCINNATI, O., Aug. 10th, 1910.

Monday. so be sure and come next week sure. will you now
Jeanette don't disappoint me will you be sure and come next
week sure. I will close hoping to hear from you at once.

your friend Della. Good by.

Counsel for defendant moves to strike the letter from the record; motion overruled; exception noted by counsel for defendant.

Q. I will ask you now to look at this letter dated "August 24, 1910 directed to "Dear Jeanettee" and signed "Miss Della Bennett 525 George St.," and state if you know, whose handwriting that is.

A. That is her handwriting. Q. By her you mean whom?

A. Miss Della.

Q. The defendant in this case?

A. Yes, sir.

Q. How did you receive this letter?

A. In an envelope. Q. By what means?

A. I received it in an envelope.

Q. By messenger or mail?

A. By mail.

Q. Have you the envelope?

A. Yes, sir.

Letter offered in evidence by Counsel for Plaintiff.

To the introduction of the letter counsel for defendant objects; objection overruled; exception noted by counsel for defendant.

Mr. DARBY (reading):

CINCINNATI, O., Aug. 24th, 1910.

525 George St.

Be sure and send me a telegram at once Cincy and I will send as many tickets as you need.

- First page of letter was here marked by the stenographer "Ex. 5;" second page "Ex. 5-a" and by agreement of counsel copies are substituted for the originals, and the same are hereto attached and made part hereof.
- Q. There is something on the back of it, is this part of the same letter?
  - A. No, sir; I wrote this on the back.

Q. You wrote this on the back?
A. Either I or Eva.

Q. This is not the handwriting on the back of Miss Della?

A. No, sir.

Q. Now you said you came to Cincinnati at what time or about what time?

A. The last time?

Q. Yes?

A. About the first of October.

Q. Did you have any further letters from Miss Bennett, the defendant?

A. I think that's the last letter; the last one she wrote. Then I had some telegrams.

Q. You'll have to talk louder? A. I think that was the last letter, then I had some telegrams sent to me.

Q. Did you receive any messages of any kind, shortly before you

came to Cincinnati?

A. I received a telegram. Q. Have you that telegram? A. I misplaced it some place.

Q. From whom was it? A. From Miss Bennett.

- Q. After receiving that telegram what, if anything, did you do relative to coming to Cincinnati?
  - A. I beg pardon. (Question read.)

A. Do you mean got another letter or what?

Q. Did you get another letter? A. No; I got the telegram.

Q. Then what did you do after you got the telegram? A. Well, I got the telegram asking me if I was coming.

Q. Have you got the telegram?

A. No sir, it was misplaced, I had it in my possession. Q. Can you now produce that telegram that you received?

A. No, sir.

Q. What were the contents of it?

Objected to. The Count: The telegram was sent from here? 25 Mr. DARBY: Yes sir.

Objection custained.

Q. What did you do after you got the telegram? A. Well after I got the telegram I wrote her a letter.

A JUROB: Speak louder.

A. After I got the telegram I wrote her a letter.

Mr. DARBY:

Q. What did you tell her in that letter?

A. I told her I would come, but I didn't know whether I could come for the Fair or not.

Counsel for defendant objects to the contents of a letter that the witness wrote to the defendant.

Objection overruled; exception noted by counsel for defendant.

Q. What did you write to her in that letter?

A. I wrote to her in that letter that I would come but I didn't know whether I could get there for the fair or not.

Q. And what followed that; what was the next thing that happened?

A. A telegram reached me.

Objected to by counsel for defendant.

Q. Another telegram?

A. Yes, sir.
Q. Now after you got that telegram what did you do—the last telegram?

A. After I got the last telegram—that was the first telegram I got. Q. Well, did you write again after receiving the telegram last re-

ferred to?

A. Yes, sir. Q. What did you say in that letter?

Objected to by counsel for defendant. Objection overruled; exception noted by counsel for defendant.

Q. What did you say to her in the last letter referred to?

A. I told her I didn't know whether I could bring any girls or not, but I would try.

Q. What did you do with reference to bringing girls?

A. I just told my friend I was coming and she said she was coming too.

Q. Who was your friend?

A. Eva Parks.

Q. What did you and Eva Parks do with reference to coming to Cincinnati?

A. We got ready to come then this Joy Handy-

Q. Never mind about Joy Handy, what did you do; did you come to Cincinnati? 26

A. Yes, sir; the tickets were sent. A telegram came then saying that the tickets were at the Depot.

Objected to and motion made by counsel for defendant that answer be stricken out; sustained.

Q. Did you get to the Depot?

A. Yes, sir. Q. What Depot? A. Big 4.

Q. In what City?

A. Chicago.

Q. Did you get anything there?

A. Yes, sir.

Q. What did you get there?

A. Two tickets. Q. For what?

A. To come to Cincinnati.

Q. By what line; on what road?

A. Big 4.

Q. Did you pay for those tickets?

A. No. sir.

Q. Did Eva Parks pay for her ticket?

A. No. sir.

Q. Then having the tickets you came to Cincinnati over that Railroad, did you?

A. Yes, sir.

Q. And when you got in here what did you do-where did you go?

A. I went to the restaurant and from the restaurant to Miss Ben-

nett's.

Q. That is Miss Bennett, the defendant?

The COURT: A little louder.

A. To Miss Bennett, the defendant.

By Mr. DARBY: Did you come directly from Chicago to Cincinnati?

A. Yes, sir. Q. Did Eva Parks come with you directly from Chicago to Cincinnati?

A. Yes, sir.

Q. So that you started together and arrived here together?

A. Yes, sir.

Q. What time of the day was it that you left Chicago?

- A. We left in the night at 11:45 and we got here in the morning about 8 o'clock.
- . Q. Now when you did arrive to Della Bennett at that time did you see her?

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A. Yes, sir; she got up. Q. Then what did you and this Parks girl do at that house? A. Well, we had some dinner—a glass of beer.

Objected to; objection sustained.

Q. When you came into the house of Della Bennett what did you do?

A. Well we asked for Miss Della and she came downstairs.

Q. Well then, did you stay there for sometime?

A. Yes, sir. Q. How many days did you remain at Miss Bennett's house?

A. I remained there about three weeks.

Q. And while you were there what did you do for a livelihood, for a living?

A. Sporting.

Q. By that did you receive men?

Question objected to by counsel for defendant and motion made to rule out answer.

Mr. Darby: I thing it perfectly proper to put a leading question.

The Court: Ask her what she means by that.

Mr. DARBY: What do you mean by the word "sporting?" The Court: I rule for the present that it may go out. Mr. DARBY: What do you mean by the word "sporting?"

A. Well, what I mean by that is receiving men, seeing men.

Q. Was that for money?

Objected to.

A. Yes, sir.

Counsel for defendant moves that answer be stricken out. Motion granted.

Q. Was there any consideration paid to you for your receiving men as you have described?

Objected to by counsel for defendant as leading and suggestive. Objection overruled; exception noted by counsel for defendant.

Q. State whether or not any consideration was paid to you for receiving men as you have described at the house of Della Bennett, after you arrived at Cincinnati?

Objection to for the same reasons; objection overruled; exception noted by counsel for defendant.

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A. What do you mean did they pay me?
Q. Yes.
A. Yes; they paid me.
Q. Now, how long did Eva Parks stay in that house to your

A. Well, she stayed there sometime after I left there.

Q. And she was there when you left?

A. Yes, sir. Q. Now what if any conversation did you have with Miss Bennett after your arrival here with reference to the sending of tickets to Chicago?

A. Well, all that was said-

Objected to as leading; objection overruled; exception noted by counsel for defendant.

Q. Answer the question?

A. What conversation with her?

The Court: If any, what conversation did you have?

A. All the conversation was I just said the other girl couldn't come that was coming with us and that was all that was said.

# By Mr. DARBY:

Q. Was there anything said there with reference to sending tickets any number of tickets to Chicago?

Objected to; objection overruled; exception noted.

(Question read.)

The COURT: I think you better confine it to what the entire conversation was then.

Objected to; objection overruled; exception noted by counsel for defendant.

# By Mr. DARBY:

Q. Did you listen to the question as it was read? A. There was no more said about sending tickets.

Q. Did you talk with Miss Bennett or did you hear her say anything to any one further about the subject of tickets and Chicago?

Objected to. (Question read.) Objection overruled, exception noted by counsel for defendant.

A. There was no more said about tickets after I came.

Q. Did you hear her send any message to any one relative to the matter of sending tickets to Chicago?

Objected to; objection overruled; exception noted.

A. No. I never have.

Q. Did you hear her telephone to any one about that matter?

A. No; I never only heard her say about the three tickets.

Q. What if anything did she say with reference to the three tickets?

A. Well, she said she would get the money back.
Q. To whom did she say that?

Objected to; question withdrawn.

Q. State whether or not Miss Bennett said anything to you with reference to the three tickets?

A. All she said-

Q. Did she say anything to you?
A. She said it to all the girls.

Q. Were you present?

A. Yes, sir.

Q. What did she say about those three tickets?
A. She said, well, she would get the money back.

Q. Give us the rest of the conversation?

A. She said she would get the money back but she had to wait a few days.

Q. Was anything further said at that time?

A. No, sir.

Q. Did she say what money? A. Money for the tickets.

Q. What tickets?

A. Five tickets were sent and two were used.

Q. Did you hear her say anything to anybody else either in the house or to any person out of the house about that?

A. No, sir.

Q. Did she send any telephone message in your presence?

Objected to; objection overruled; exception noted.

A. No, sir.

Q. She did not?

A. No, sir.

Q. Now, I want to show you this paper and which for the purpose of identification we will have marked "5" and ask you to look at this signature over the word "deposition" and state in whose handwriting that is?

A. Miss Bennett.

Q. By Miss Bennett, you mean whom?

A. The defendant.

Q. The words "Della Bennett" you say are in her handwriting?

A. Yes, sir.

Q. Now, I show you this other paper, which for the purpose of identification we will mark "6" and ask you to look at the first indorsement on the back of it and state in whose handwriting that indorsement is?

A. Miss Bennett. Miss Della Bennett.

Q. By Miss Della Bennett, you mean whom; the defendant 30 in this case?

A. Yes, sir.

Q. You say the words are in what? A. In her handwriting.

Q. These words "Miss Della Bennett?"

A. Yes, sir.

Q. Do you know whether Eva Parks had been at Miss Della Bennett's house before this time in October?

A. No, sir. Q. By what name was she known at that house when she went there?

A. Well her name was Grace there. The Court: Speak out louder.

A. Grace Parks.

#### By Mr. DARBY:

Q. She was known as what? A. By the name of Grace Parks.

Q. Now, when this arrest was made and you were brought before the Commissioner was the defendant, Della Bennett, present?

A. No, sir.

Q. You were present at the hearing before the Commissioner in the District Attorney's office?

A. Well, I was present about an hour before she came.

Q. Did you testify there?

A. No, not that I know of, just told them what I did do.

Q. Did you tell them your name?

A. Yes, sir.

Q. Did you there give them the name of Opal Clark?

A. Yes, sir.

Objected to; objection sustained.

Q. What name did you give before the Commissioner as your name in the presence of the defendant; what name did you give?

Objected to; objection sustained.

Counsel for plaintiff reserves the right to prove the telegrams later.

Cross-examination.

By Mr. LEVY:

Q. Miss Clark, please tell us your age-how old are you? A. I am 22.

Q. 22?

A. Yes, sir.

Q. Do you know what age you gave when you were taken before the United States Commissioner?

. 23.

Q. Yes, and since you have been arrested you have become one year younger?

A. No, sir; I won't be 23 until June; this coming June.

Q. And where were you born?

A. I was born in Canada.

Q. What is the date of your birth?

A. June 21, 1888. Q. June 21, 1888?

A. Yes, sir.

Q. And when did you leave Canada?

A. I left Canada when I was 11 years old.

Q. Are you married or single?

A. I am married.

Q. When were you married?

A. I was married in the year 1905.

Q. Where were you married? A. I was married in Detroit.

Q. Detroit, Michigan?

A. Yes, sir.

Q. Your husband's name is what?

A. Laplante.

Q. Were you ever divorced from him?

A. No, sir.

Q. So Laplante is your right name now?

A. Yes, sir.

Q. What was your maiden name?

A. My maiden name is Demass.

Q. Spell that? (No answer.)

Q. Have you any children?

A. I have one.

Q. How old is that child?

A. Three years old. Q. Boy or girl?

A. Girl.

Q. Where is that child?

A. With my sister.

Q. Where does your sister live?

A. Quebec, Canada.

Q. How long have you been engaged in sporting?

A. About two years.

Q. About how many years?

A. About two years.
Q. That is you started in the sporting life then in 1909?
A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. Now you are not mistaken about that?

A. No. sir.

Q. Where did you start your sporting life?
A. In Chicago.

Q. In Chicago, in whose house?

A. A woman by the name of Fanny Wilson.

Q. Where was her place?

A. At 2109 Dearborn street.

Q. Was Joy Handy an inmate with you at that time?

A. Not at that time; no, sir.

Q. How long did you remain at Fanny Wilson's house?

A. I remained there about five months.

Q. Is that all?

A. Then I went to-

Q. Is that all?

A. That is all, then.

Q. And from Fanny Wilson's where did you go?

A. I went to Detroit.

Q. Did you go to a sporting house there? A. No. sir.

Q. Did you do any sporting in Detroit?

A. No, sir. Q. How long did you remain in Detroit?

A. I remained about two months in Detroit.

Q. From Detroit where did you go?

A. I came back to Chicago.

Q. In whose house did you go then? A. Miss Fanny Wilson's.

Q. Back to Fanny Wilson?

A. Yes, sir. Q. And how long did you remain at Fanny Wilson's the second

A. Well, I remained there about a couple of months.

Q. A couple of months?

A. Yes, sir.

Q. And from there where did you go? A. From there I went to Mable Mack's.

Q. To whom?
A. Mable Mack; a flat.

Q. She also ran a house of prostitution?

A. A sporting flat.

Q. It was where you would meet men? A. Yes, sir.

Q. Prostitution?

A. Yes, sir.

Q. And how long did you remain at Mable Mack's?
A. I remained there about two months.

Q. Now you were an inmate of a house in Chicago at 2017 Armour Avenue?

1 .101 1 .....

A. Yes, sir.

Q. Whose house was that?

A. I forgot the woman's name.

Q. Whose house was that?

A. I can't think of her name. Q. How long were you an inmate of 2017 Armour Avenue?

A. I don't think very long; about four weeks.

Q. How long were you an inmate of a house at 2109 Dearborn Street?

A. About 8 months.

Q. Who ran that house?

A. Fanny Wilson.

Q. How long were you an inmate of a house at No. 5 West 21st St.?

A. About a month before I came to Cincinnati.

Q. Where you in a place known as Searchlight in Chicago? A. That is Fanny Wilson's.

Q. Now in Cincinnati you were an inmate of Della Bennett?

A. Yes, sir.

Q. How many different times?

A. Three times.
Q. Three or four times?

A. Three times.

Q. When were you here? A. I was here in February.

- Q. Next?
  A. Then she sent for me in June and I went away and came in October.
  - Q. Weren't you here in February, May, July and October?

A. Yes, sir; I came in October. Q. You were there four times?

A. Three times.

Q. February, May, July and October?

A. I came in May and stayed until July and I went away and I came in October, it was.

Q. Were you an inmate of Emma Harris' house at any time in Cincinnati?

A. Yes, sir.

Q. Were you an inmate of Maud Clark's in Cincinnati?

A. Yes, sir; for a few days.

Q. Were you an inmate of Grace Martin's in Cincinnati?

A. Yes, sir.

Q. What other houses of prostitution have you been in?

A. That is all.

Q: Now, then, madam, I want you to tell this jury if it is not a fact that you have been engaged in sporting for the past five or six vears?

A. No, sir; I have not.

Q. You have not?

A. No, sir.

Q. You have been separated from your husband for how long? Well, I have been away from him several different times.

Q. Now, I want you to tell this jury whether or not you know a man by the name of Tommy Owens?

A. Yes, sir: I do.

Q. Where is he now?

A. He is in Chicago.

Q. What business is he in?

A. He is a bar tender.

Q. What place?

A. At Tom Little's place. Q. What is the place known as? A. The Imperial.

Q. There is a saloon in front and a sporting house in the rear?

A. Yes, sir. Q. You were an inmate of that house?

A. No, sir.

Q. Did you ever meet men in that place?

A. No, sir.

Q. You say you did not?

A. No, sir.

Q. Did you ever go to that place with Joy Handy?

A. I went there and had drinks.

Q. Now I want you to tell the jury whether or not this Tommy Owens was known as your man?

A. Yes, sir; he was.

35 Objected to by counsel for the prosecution.

Mr. LEVY: I feel it is so important that I want to make this statement because I don't want the rights of any persons prejudiced here.

The Court: Well, go on,

By Mr. LEVY:

Q. I want you to tell this jury whether or not it is not a fact that you out of your earnings as a prostitute sent money to this Tommy Owens for his support?

Objected to; objection overruled.

A. Yes, sir; I sent him some money not much.

Q. Now, I want you to tell this jury whether or not you did not have another man in Chicago by the name of George?

A. Yes, sir; I had.

Q. What was his last name?

A. George Day.

Q. I want you to tell this jury whether or not you know what has become of this George Day?

Objected to.

A. I don't know what becomes of him.

Q. Didn't you tell Louis Wilson that this George was George was sent to the penitentiary for violating the age of consent law with two little girls?

Objected to; objection sustained; exception noted by counsel for defendant.

Q. I want you to tell the jury whether or not in the City of Chicago you were addicted to smoking a pipe with Tommy Owens containing dope?

A. No, sir; I was not.

Q. I want you to tell the jury whether or not yourself and Tommy Owens smoked dope in a place known as the Alhambra?

A. No, sir; he did but I never did in my life.

Q. Didn't you come to the place where you lived, I think Millie Evans', under the influence of that?

A. No, sir.

Q. Didn't you admit to Joy Handy in Chicago, that you smoked this dope?

A. I said that it made me sick the smell of it but I never used it

in my life.

Q. Did you say that to Joy Handy?

A. I just said it made me sick. Q. I want you then to tell this jury whether or not it was necessary for Millie Evans to call in officers to put you out because you were raising a disturbance while under the influence of dope?

A. No, sir; it was because Miss Mabel wanted me to come 36 back and I had been drinking a little and she didn't want me to leave her place and I said I was going to leave anyhow.

Q. I want you to tell the jury whether or not in Chicago you

worked what is known as the panel-game?

A. No, sir.

Q. Didn't you tell Miss Louise Wilson that in Chicago you worked the panel-game?

A. No, sir; I told her I was in a panel house, but the landlady

worked the panel game.

Q. Now, tell the jury what a panel is?

Objected to; objection sustained; exception noted by counsel for defendant.

Q. Is it not a fact Miss Clark, that the panel game is where you get men in a room, get them in a compromising position, and then a man comes in claiming to be the injured husband, and you shake him down for money?

Objected to; objection overruled.

Q. Answer the question

A. I don't know anything about the panel game only that the idlady had all to do with the panel game.

Q. Who was the landlady?

A. A woman by the name of—she was sent to the penitentiary. a French woman; she was Madam Eva.

Q. And you were an inmate of that house?

A. Yes, sir. Q. Didn't you tell Louise Wilson that you worked the panel game and gave the money you got from the panel game to your man in Chicago?

A. No. sir; I never did.

Q. Will you tell the jury how long you were an inmate of the house that played the panel-game?

A. I was an inmate about seven weeks.

Q. Now do you know a man in Cincinnati by the name of Sam Tweedy?

A. I know of him.

Q. Do you know him personally? A. No, sir; I don't know.

Q. Do you know whether he is a white man or a colored man?

A. He is colored.

Mr. Levy: Sam stand up please.

(Here a colored man from the audience in the Court-room came forward.)

Q. Do you know this man?

A. I seen him that is all.

Q. Did you ever write him any letters?

A. He wrote me a letter.

Q. Did you ever write him any letters?

A. I wrote one letter.

Q. On one.

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A. That is all. Q. Did you ever live with him as man and wife? A. No, sir.

Q. You never did?

A. No, sir.

Q. Did you ever have intercourse with this man?

Objected to.

A. No. sir.

The Court: This is too far-too collateral; the objection is sustained.

(Question read.)

By Mr. LEVY:

Q. Did you ever have intercourse with this man at a place down on West Sixth Street known as the Iron Steps between Central Avenue and John?

A. No, sir.

Q. Tell this jury whether or not this is your handwriting?

A. (Handing letter to witness.) Yes, sir, it is.

Q. To whom was this letter sent? A. To this man.

Q. To Sam Tweedy, this colored man? A. Yes, sir.

Mr. LEVY: I would like to read this letter.

The Court: Hand it up here. (The Court reads letter.)

Objected to; objection sustained; exception noted by counsel for delendant.

Mr. LEVY: I want it marked for identification.

(The envelope and the two pages of the letter were marked by the stenographer) "Ex. A for identification."

Recess until two o'clock P. M.

#### Afternoon Session.

And also Robert C. Bliss, being first duly sworn, testified as follows:

Direct examination.

#### By Mr. DARBY:

Q. Mr. Bliss, will you state your full name?
A. Robert C. Bliss.

Q. You live in Cincinnati?

A. Yes, sir.

Q. What is your occupation? 38 A. Manager of the Western Union Telegraph Company.

Q. At what point?

A. Cincinnati. Q. You were subpænaed to produce certain telegrams sent from Cincinnati to Chicago in September 1910 to Jeanette Clark have you those papers with you?

A. I have.

Q. I show you this paper, can you state the date of that message? A. September 28th.

Q. Of 1910? A. 1910; yes, sir.

Q. And this one can you state the date of that message?

A. 27th of September. Q. Of the same year?

A. Yes, sir.

Q. Now these were taken from the files of your office and were telegrams deposited there for transmission?

A. Yes, sir. Q. And were transmitted?

A. They were.

#### Cross-examination.

# By Mr. LEVY:

Q. You of course don't know who sent those telegrams, do you? you?

A. No, sir; I do not.

Mr. Darby: Before the cross-examination continues your Honor we would like to conclude as to this part of the case.

Mr. LEVY: I am entitled to complete my cross-examination.

The Court: This is to complete what was left out this morn-Mr. Levy: All right.

OPAL CLARK here resumed the stand.

Direct examination continued.

By Mr. DARBY:

Q. I will get you now, if you can to give to the Court and jury the details and the wording of any of the messages you received from Della Bennett in September of 1910?

Mr. LEVY: I ask that the witness be required to answer yes or no.

Mr. Darby: Can you give us the words of any of those 39 messages just as they were sent to you?

A. Yes, sir. Q. Have you any of the messages in your possession which you received at Chicago?

A. I have none now; I lost them.

The Court: Speak out louder, please.

A. I have none now; I lost them.

By Mr. DARBY:

Q. I show you these two pieces of paper; one being a deposit ticket on the First National Bank, pasted on a Western Union Telegram Blank, dated September 27th and ask you to state in whose handwriting that is?

Objected to.

The Court: You were asked if you know in whose handwriting that paper is?

A. Yes, sir.

By Mr. DARBY:

Q. In whose handwriting is that message?

A. Della Bennett.

Q. The defendant in this case? A. Yes, sir.

Q. Did you receive such a message from her in Chicago?

A. Yes, sir. Q. Just read it.

Mr. LEVY: I want to make the same objection because the paper is addressed to Jeanette Clark.

Objection overruled; exception noted by counsel for defendant. Mr. LEVY: I make a further objection on the ground that the witness says she remembers what the telegram contains, without

Mr. Darby: This is the original paper now signed by the defend-

The Court: Her memory is secondary evidence.

Mr. DARBY: I should not have asked that question without the papers in my hands.

Q. Just read the message you have to yourself and then just state whether you received such a message in Chicago?

Objected to by counsel for defendant; objection overruled; exception noted.

A. That's the same I received in Chicago.

Mr. Darby: We offer this in evidence, it is pasted on a Western Union Telegram Blank dated Sept. 27, Miss Jeanette Clark No.

5 W. 21st St., Chicago, Ill. Answer will I send ticket to you or not. Della Bennett, 525 George St., Cincinnati". Telegram marked by the stenographer "Ex. 7" and by agreement 40 of counsel copy is substituted for the original, the same is hereto attached and made part hereof.

Counsel for defendant objects and moves that the telegram be stricken from the record; objection and motion overruled; exception

noted by counsel for defendant.

Q. I ask you to look at this paper and ask you if you know in whose handwriting that pencil mark is?

A. That is Miss Bennett's.

Q. By Miss Bennett you mean whom?

A. The defendant.

Q. Did you receive a message like that in Chicago?

A. Yes, sir.

Mr. Darby: We offer this in evidence, your Honor,

Objected to; objection overruled; exception noted by counsel for defendant.

Mr. Darby: This is a Western Union Company telegraph Blank

with a piece of paper pasted on the face of it.

"Cincinnati, Miss Jeannette Clark No. 5 W. 21st St., Chicago, Ill. 5 tickets are on way send telegram when you leave. Bennett".

Then scratched out but easily read are the words "525 George

St., Cincinnati." Please rush this 525 George St."

Paper marked by the Stenographer Ex. 8. By agreement of counsel copy is substituted for the original, the same is hereto attached and made a part hereof.

Objected to by counsel for defendant; objection overruled; excep-

tion noted by counsel for defendant.

Q. I show you now a telegraph blank dated 9-29 and directed to Jeanette Clark No. 5 W. 21st St., Chicago, Ill., and ask you if you know in whose handwriting that is?

A. Miss Bennett.

Q. The defendant Miss Bennett?

A. Yes, sir. Q. Did you receive such a message like that from her?

A. Yes, sir.

Mr. DARBY: We offer in evidence this message your Honor. Same objection; objection overruled; exception noted by counsel for defendant.

On the Blank of the Western Union Telegraph Company: "9-29 To Jeanette Clark: No. 5 W. 21st St., Chicago, Ill. 5 tickets at 12th St. Station, leave there Friday to get here Saturday. Della Bennett."

Counsel for defendant moves to have the telegram just read stricken from the record; motion overruled; exception noted

by counsel for defendant.

Paper marked by stenographer "Ex. 9" and by agreement of counsel copy is substituted for the original, the same is hereto attached and made part hereof.

Q. What is the 12th St. Station in Chicago; what railroad?

A. The Big Four.

Crow-examination (continued).

#### By Mr. LEVY:

Q. Now, madam, this morning you told me that your right name was Laplante, what is your first right name?

A. Jeanette.

Q. Your right name is Jeanette?
A. Yes, sir.
Q. That is your right maiden name, was it?

A. Yes, sir.

Q. Did you ever go by the name of Nellie?

A. I went by that name.

Q. By how many different names have you gone?

A. Just Opal and Nellie.

Q. And Jeanette?

A. Jeanette is my right name.
Q. You never went by the name of Laplante in any of these houses?

A. No. sir. Q. Now this morning when I asked you of how many houses you had been an inmate you didn't tell us that you had been an inmate of this house where this panel house was run?

Objected to.

Q. Have you been an inmate of any other house than those that I have named?

A. No, sir.

Q. Have you ever been an inmate of a house in Louisville, Kentucky?

A. No, sir. Q. Now, Miss Clark, do you remember the time Millie Evans called in the officers in Chicago to put you out of her house, do you remember that time?

A. She didn't call in the officers; I told her I was going to leave. Q. Do you remember the time the officers were in there?

A. Yes, sir.

Q. Didn't you make a charge at that time against Millie 12 Evans that she had sent you tickets to come from Cincinnati to Chicago?

A. Well, I had-

Q. Did you or not?

A. Just as-

The Court: Answer yes or no and explain it.

A. The tickets were to be sent by my fellow to me.

By Mr. LEVY:

Q. Didn't you also say at that time to the officers that you had never been in Chicago before that time?

A. No, sir.

Q. Now, I want to ask you if it is not a fact the time you left Millie Evans now that you stole certain fancy work belonging to Joy Handy?

A. No, sir.

Q. Did you ever steal anything belonging to Joy Handy?

A. No, sir; nothing whatever.

Q. I will ask you if it is not a fact that you stole a fur coat and a pair of shoes when you were an inmate of Emma Harris' house?

A. No, sir.

Q. Weren't you taken by officers at Whity's saloon on George street?

A. I had bought the coat and paid so much down on it.

Q. How about the shoes?

A. About the shoes, one of my heels was broken and one said I could wear them?

Q. Didn't you steal those shoes?

A. No, sir; I did not.

Q. I will ask you if it is not a fact that you told Louise Wilson when she asked you how you happened to come to Cincinnati this last time—if it is not a fact that you told her that you and Grace Parks got on a drunk and you didn't know that you were on your way to Cincinnati until you were half way down here?

A. No. sir.

Q. Didn't you say that to Louise Wilson?

A. No, sir.

Q. Didn't you also say to Joy Handy the way you happened to come to Cincinnati that you and Grace Parks got on a drunk and that you didn't know you were on your way to Cincinnati until you were half way down here?

A. No, sir.

Q. And isn't it the fact that the last time you came to Cincinnati you even left your trunk in Chicago?

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Λ. Yes, sir.
Q. Now what is Parks' right name?

A. Neva Parks.

Q. Spell that? A. N-e-v-a.

Q. She was also known as Grace?

A. Well, Miss Della gave her that name. Q. She was also known as Grace Parks?

A. No sir; she never was known by that name.

Q. Was she ever an inmate of a house of prostitution also in Chicago?

A. Yes, sir.

Q. In whose house?

A. Mabel Mack.

Q. Mabel Mack, Chicago?

A. Yes, sir.

Q. Was she an inmate of Fanny Wilson's.

A. Yes, sir.

Q. She was an inmate of Fanny Wilson's at the same time that Joy Handy was there, wasn't she?

A. I think she was; I wasn't there at that time. Q. Wasn't she at that time known as Grace?

A. No, sir.

Q. That is not true? A. No, sir.

Q. Is it a fact that you took her down to Emma Harris' house and introduced her as Grace?

A. I introduced her by the name she was going by. Q. Did you introduce her as Grace, did you, or not?

A. Yes, sir.

Q. Now then, the last time you were in Della Bennett's house you were there for how long?

A. I was there about three weeks. Q. Three weeks or two weeks?

Mr. McPherson: She said three weeks.

By Mr. LEVY:

Q. I am asking her the question whether it was-isn't it the fact that you were there only two weeks?

A. Well, I didn't count just how long it was.

Q. Will you please answer me, if as a matter of fact it was only two weeks?

A. About two weeks.

Q. Now then, madam, do you know a man here by the name of Skeeter Jim?

A. Yes; I know him.

Q. And what business is he in? A. Saloon-keeper—bar-tender.

Q. Bar tender where?

A. On Central Avenue. Q. Was he your man in Cincinnati?

A. He was my friend that is all. Q. Was he your man in Cincinnati?

A. No. sir.

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Q. He was not?

A. No, sir.

Q. Didn't he have anything to do with your coming down here this last time?

A. No, sir.

Q. Was he a good friend of yours the previous time you were in Cincinnati?

A. I just met him the last time I was in Cincinnati.

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Q. Isn't it the fact that he ran with you at Della Bennett's house or stayed there all the time?

A. No, sir.

Q. Isn't it a fact madam, that Della Bennett put you out of her house because Skeeter Jim was always up in your room?

A. Only once and that was on my day off.

- Q. And isn't it a fact that Della Bennett put you out of her house?
- Q. Will you please wait until I finish my question. Now isn't it a fact that Della Bennett put you out of her house because Skeeter Jim was always laying up with you in the room?

A. No, sir.

Q. It is not true?

A. No, sir.

- Q. And isn't it the fact that you swore you would get even with her?
  - A. She had called me names. Q. Will you please answer me?

A. No.

Q. That is not so? A. No, sir.

Q. Didn't you testify before the Commissioner that you bawled her out and said you would get even with her?

A. I said she bawled me out and I bawled her right back.

Q. And you would get even with her?

A. No, sir.

Q. Now, from Della Bennett's house where did you go?

A. To Miss Grace Martin's.

Q. And how long did you stay at Grace Martin's? 45

A. I stayed there about a week. Q. Will you please tell the jury after you left Grace Martin's where you went?

A. I went to Emma Harris'.

Q. And how long did you stay at Emma Harris'?

A. I stayed there about seven weeks.

Q. Do you remember the time when you got a black eye?

Objected to (question read). Objection overruled.

Q. Answer that please?

A. I remember about it. Q. You at that time, were an inmate of Emma Harris'?
A. Yes, sir.
Q. Who gave you that black eye?

A. A fellow from Chicago, by the name of George Day.

Q. Wasn't it the negro.

A. No; it wasn't. Q. It wasn't Sam Tweedy, was it?

A. No, it was not.

Q. Now let me ask you whether you did not tell Louise Wilson that it was your lover George from Chicago that gave you the black eye?

Objected to; objection sustained.

Q. Now let me ask you this; while you were an inmate of Emma Harris' isn't it a fact that you were a number of times under the influence of dope-seven or eight times while an inmate in Harris'?

A. No, sir.

Q. When, Mr. Watson, this gentleman here first saw you, didn't you tell him that you came to Cincinnati on your own accord?

A. No, sir; I did not. Q. Didn't you tell Mr. Watson, this gentleman here, look at him that you came here of your own initiative?

Objected to.

Q. You did not tell him that?

A. I answered it.

The COURT: She said no.

By Mr. LEVY:

Q. Now, then, did you tell any one that your purpose in coming to Cincinnati was to go on the stage, the vaudeville stage?

A. No. sir.

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Q. Didn't you tell anyone that you came here with Grace Parks-Grace could play and dance and you could dance and that was your purpose in coming to Cincinnati?

A. Grace and I made that up between us that we would

go on the stage.

Q. Then you didn't come down here for the purpose of prostitution, did you? A. At the time we did; but we meant afterwards to go from there

to Toledo on the stage.

Q. Wasn't that your purpose before you came to Cincinnati? A. No, sir.

Q. It was not your purpose?

A. No, sir.

Q. Before you came to Cincinnati last time in whose house were you an inmate?

Objected to; objection sustained.

Q. At that time you were an inmate of Handy and Brighton's place?

Objected to; objection sustained; exception noted by counsel for defendant.

Q. Didn't you at that time say before you left there that you were coming to Cincinnati and that no one had sent you the tickets, did you say that to Joy Handy?

A. No sir; I never, because she seen all the tickets.

Q. Joy Handy was the Mistress of the house at that time?

A. No. sir.

Q. Before you came to Cincinnati?

A. No. sir.

Q. Didn't Joy Handy run Millie Evans' old place?

A. She did. She said she did; I don't know but I never was there.

Q. You tell this Jury you were not an inmate of Joy Handy's place and you didn't make this statement to Joy Handy?

The Court: That is what she said.

A. No, sir.

By Mr. LEVY:

—. Where is the Alhambra place located in Chicago?

A. Twentieth and State, I think. Q. What kind of a place is that?

A. I don't know-I never-I was only in it twice.

Q. You were in there twice then you know what kind of a place it is?

A. It is a Hotel.

Q. Occupied by whom?

A. Well, I don't know who runs it.

Q. What's that?

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A. I don't know who runs it.

Q. With whom were you there?

A. I was there to see a friend of mine who roomed there.

Q. Who was your friend?

A. George Day.

Q. Didn't you tell Joy Handy that you had been going to the Alhambra and visited men who roomed there and with whom you smoked the pipe?

A. No, sir.

Q. Do you remember when you testified before the United States Commissioner at the preliminary hearing that you told the Commissioner that before you came here last October in Cincinnati you had never been to Bennett's house before?

A. I told him I had been there before when they asked me.

Q. But didn't you tell the United States Commissioner at first that you had never been there before?

A. No; not that I know of. Q. That you weren't there?

A. I never told him that I know of; he never asked me.

Q. Now then this Grace Parks she had never been an inmate of Della Bennett's house before that had she?

A. No, sir.

Q. Did you ask her to come with you?

A. No, sir.

Q. How did she happen to come?

A. I told her I was coming.

Q. And she wanted to come along with you?

A. Yes, sir.

Q. She had never met Della Bennett had she?

A. No, sur.

Q. What do you smoke, Miss Clark?

A. What is it?

Q. What do you smoke?

A. I smoke cigarettes once in a while.

Q. Drink too?

A. Occasionally. Q. Now, do you recall December the 8th when officers Fox and Green of the Cincinnati Police Force took you out of Whitey Denny's saloon?

A. Yes, sir.

Q. And they took you over to Emma Harris' house?

A. Yes, sir.

Q. Didn't you tell officers Fox and Green in the presence 48 of Louise Wilson that it was Emma Harris that sent the tickets that brought you from Chicago to Cincinnati?

A. I never said nothing like that.

Q. You didn't say that?
A. No, sir.

- Q. And didn't you also say to officers Fox and Green at that time that Louise Wilson had also sent you the ticket to come to Cincinnati?
  - A. No, sir; I never said nothing like that.

Q. You didn't say that?

A. No, sir.

Q. Do you know officers Fox and Green?

A. Yes, sir.

Q. The two policemen sitting over there?

A. I know them.

Q. You didn't make that statement to them in the presence of Louise Wilson?

A. I never made that statement to them in the presence of Louise Wilson; no, sir.

Q. And didn't you also say at that time you would get even with Emma Harris and Louise Wilson if you had to lie about it?

A. I never said anything like that: I said I could bring them into

trouble for bringing me to Cincinnati.

Q. That you could bring Emma Harris and Louise Wilson into trouble for bringing you to Cincinnati?

A. No; I didn't mention Emma Harris or Louise Wilson; I said could get them into trouble for bringing me here.

Q. Who told you what that law was? A. Friend of mine told me, you know what chances you run coming here.

Q. Who was that friend? A. A friend of mine.

Q. Who was it?

A. A friend of mine by the name of Elmer Mars.

Q. Where is he?

A. I don't know where he is now.

Q. Where was he at the time when he told you?

A. He was in the house.

Q. Elmer Marks?

A. Elmer Mars.

Q. Will you tell me how it is you identify Della Bennett's handwriting?

A. I identify her writing because she asked me to give her some girls names to write to her to come here and I gave them to her; the names of some girls and I sat down and watched her

writing.

Q. Can you tell her writing from any one else's?

A. Yes, sir.
Q. Is there anything about her writing that makes you identify it?

A. She writes slanting like.

Q. Can you repeat the way she writes or signs her name?

A: No, sir.

By Mr. DARBY: How is that?

Mr. Levy: Whether she can repeat the way she signs her name. Objected to; objection, sustained; exception noted by counsel for defendant.

Q. And when you say that is Della Bennett's handwriting you give that as your opinion?

A. Yes, sir; I know it is her writing.

Q. Could you identify it from any one else's?

A. I could identify anybody else's if they wrote to me and signed their name. I would know whether it was her writing or somebody else's.

Q. Now, then, you testified here this morning, when Mr. Darby shows you one of these letters that on the back of the letter Exhibit 5, that you wrote this on the back yourself, did you so testify?

A. I didn't testify.

Q. Oh, what did you say about it?

A. I said Eva Parks or myself did, I didn't know which.

Q. It was either you or Eva Parks who wrote it?

A. Yes, sir.

Q. Then this writing on the back of the letter, marked Exhibit 5. was written by either you or Eva Parks?

A. Yes, sir.

Q. This now you say that it is your writing?

A. Yes, sir.

Q. And you gave these letters over to the government?

A. No, sir; I gave them an order to go to my trunk.

Q. You gave them an order to go to your trunk and they got it?

A. Yes, sir.

And also WALTER J. WOOD, who being first duly sworn testified as follows:

Direct examination.

By Mr. DARBY: 50

Q. Your name is Walter Wood?

A. Walter J. Wood.

Q. Where do you live?

A. Price Hill.

Q. And what's your occupation? A. Ticket seller Big Four Railway.

Q. At what office?

A. City ticket office, Fourth and Vine.

Q. In this city?

A. Yes, sir. Q. Were you employed there last September?

A. I. was.

Q. I will show you this paper which has been marked 5 for identification and ask you if you can identify it as having been in your hands before?

A. Yes, sir; I wrote it.

Q. You wrote the body of it? A. Yes, sir.

Q. And who wrote the name of the Agent?

A. I did.

Q. You wrote that yourself?
A. Yes, sir.

Q. Now, who wrote the name of the depositor?

A. The party who gave me the order. Q. Can you identify that party?

A. No, sir. Q. Will you look about and see if you can see the party in the Court Room?

A. I do not know her.

Q. Will you look at the defendant in this case—this woman sitting at the end of the table and state whether that is the woman or can you identify her?

A. I don't remember.

Q. Will you state what occurred in your office as between you and the person who signed the name there as depositor?

Objected to unless the defendant is connected with it.

The Court: That is so.

Objection overruled; exception noted by counsel for defendant.

# By Mr. DARBY:

Q. Just state the whole transaction, just answer the question just what occurred between you and the person who wrote the name Della Bennett at that time?

A. It has been so long ago I don't remember exactly; except she asked me to send five tickets to Chicago for five people to come here.

The COURT: A little louder.

A. A party came to the office and they asked me to send five tickets to Chicago; to bring five people here otherwise I don't remember anything about it.

Q. Then did you write the body of that order?

A. Yes, sir.

Q. What did you do with the order?

A. We mailed the original to the agent in Chicago and we gave the depositor a receipt for the deposit and this is the agent's stub.

Q. And this paper is one of the records of your railroad company?

A. Yes, sir.

Mr. DARBY: We offer to read it if your Honor please.

Objected to; objection overruled; exception noted by counsel for defendant.

"Passenger Department."

9-29-19

Agent's Stub.

CHICAGO, ILL.

To A. E. Emerson:

Received from Mr. Della Bennett whose address is 525 George St., City of Cinti., O., State of Ohio, the amount indicated below as "Total Value" to pay for 5 1st class ticket- from Chicago to Cincinnati via C. C. C. & St. L. and (\$— dollars in cash to be delivered to Miss Jeanette Clark whose address is 5— W. 21st St., City of Chicago, State of Ill.

Total Value (\$30 and Thirty-30-100 Dollars.)

Remarks -.

Money received on deposit by agent of these lines for tickets and cash to be forwarded on this order is accepted as an accommodation to patrons and such tickets and cash will be furnished as promptly as possible but only with the understanding that the depositor will assume all responsibility for delays or losses incident to transmission by mails or telegraph or other errors of whatever nature.

These lines will use every possible precaution to insure delivery only to the party designated but will not be liable for delivery to

wrong party through imposition of any nature.

The above is thoroughly understood and agreed to by depositor who further agrees to pay any difference between amount deposited and traffic fare should it develop later that the agent has through oversight or lack of information collected less

than the authorized traffic fare.

(Signed)

GEO. P. PORTER, Agent. DELLA BENNETT, Depositor.

Agent making collection will include this order in monthly interline ticket report at total amount collected." And stamped "C. C. & St. L. Ry. Sept. 29, 1910, City Office, Cincinnati, O."

Two figures "\$."

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We offer this in evidence.

Paper marked by the stenographer "Ex. 10." It is agreed between counsel that copy may be substituted for the original; the same is hereto attached and made part hereof.

Objected to by counsel for defendant and motion made to strike from the record. Objection and motion overruled; exception noted by counsel for defendant.

Cross-examination.

### By Mr. LEVY:

Q. You don't know whether the person who signed that paper was a man or a woman do you?

A. I remember it was a woman.

Q. Why didn't you put on there 'Miss Della Bennett instead of Mr. Della Bennett?

A. We just put the first name of the party; the matter is printed

in there.

Q. You don't know who that woman was who signed it?

A. No, sir.

Q. And those tickets were bought at Cincinnati, Ohio?

A. Yes, sir.

And also Charles Otto Tangeman, who being first duly sworn testified as follows:

Direct examination.

### By Mr. DARBY:

Q. Will you give us your full name?

A. Charles Otto Tangeman.

Q. Where do you live Mr. Tangeman?

A. I live in the City.

Q. And your occupation is what?

A. Chief Clerk of the General Passenger Department.

The Court: Did you say what the Big 4 means?

A. Cleveland, Cincinnati, Chicago & St. Louis Rv., it is known as the Big Four.

#### By Mr. DARBY: 53

Q. That railway runs between the City of Cincinnati and Chicago, Illinois?

A. Yes, sir; one of the lines.
Q. I will ask you if you can identify this check or order, what-

ever you may call it?

A. Yes, sir; it is a draft that was issued on my authority in connection with the return-on account of three first class tickets to Cincinnati.

Q. Payable to whose order?

A. It was payable to the order of Miss Della Bennett.

Mr. Darby: Now, we offer that in evidence, your Honor. The witness this morning identified the signature of the defendant Miss Della Bennett's as being that of this defendant.

Objected to; objection overruled; exception noted.

A. This is a signature—I want to explain it is not my signature, it is the cashier's in the office; it was issued on my order.

Q. You simply brought this paper here from your records? A. Yes, sir.

Mr. DARBY (reading):

Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.

General Passenger Department.

CINCINNATI, OHIO, Oct. 14, 1910.

To Local Treasurer, The Cleveland, Cincinnati, Chicago & St. Louis R'y Co.:

Pay to the order of Miss Della Bennett, Eighteen and no/100 dollars (\$18.00.) Not valid if drawn for an amount in excess of twenty-five dollars (\$25.00) or to the order of cash the officer signing same or after sixty days from date unless the time limit is extended in writing by the undersigned.

Payable through the First National Bank of Cincinnati, Ohio. B. S. TANGEMAN, Cashier."

And stamped on the face "C. C. C. & St. L. R'y. Co. Paid Oct. 18, 1910, Local Treasurer" and countersigned by "F. M. Brine, Auditor Passenger Accounts." And in the margin is a red check mark opposite the word "Passenger" below the letters "C. C. & St. L." and endorsed on the backs "Miss Della Bennett, I. Zacharow."

Mr. LEVY: I ask that that be stricken from the record. Objection overruled; exception noted.

54 By Mr. DARBY:

Q. Mr. Tangeman, have you any other record about this matter

in your possession?

A. I have the file that the Auditor keeps with reference to these matters; there is my original order on the stub, the draft and what leads up to it is in that shape.

Q. You have a record of this being a refunder of three tickets from

Chicago to Cincinnati?

Yes, air.

A. Yes, sir.
Q. Have you in your office or have you in your possession any records showing the original transaction as to the number of tickets first ordered?

Objected to.

The Court: Was this in the ordinary course of business?

A. Yes, sir; in the ordinary course of business.

Q. In the railroad?

A. Yes, sir. (Question read.)

Mr. DARBY: On which this refunder was made?

A. I have here the Accounting Department stub which is an impremion copy taken at the same time that copy was written.

The Court: Referring to the paper last spoken of?

A. I refer to this order 7268 Form T. R. D. Form 7268 that is the Agent's stub and this is the department stub.

# By Mr. DARBY:

Q. Then that is the original record made in your office of this

transaction?

A. No, sir; in the office of the ticket agent at Fourth and Vine. The ticket seller sends this to the Auditor and on that the ticket agent is charged with the collection.

Q. Then it was on that transaction that that refunder was made?

A. In that connection we received a letter.

Q. Will you answer please?

A. Certainly in that connection.

Q. Now you spoke of this paper which I have here and on this Form T. D. R. 7268 headed "Department Stub" and you say that it is an impression copy of this paper which is marked "Agent's Stub?"

A. That is the blank, I presume it was handled as intended; I don't know about that; it seems to be an impression copy rather than

a carbon copy.

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Q. The Big Four Railroad is engaged in what business as between here and Chicago?

A. Common carrier between here and Chicago.

Q. Common carrier of what? A. Passenger- and freight.

### Cross examination.

# By Mr. LEVY:

Q. All that you testified to about this transaction and the papers which you have introduced were not made in the presence of the defendant in this case were they?

A. No, sir; I knew no one in connection with it.

Q. You don't know Della Bennett do you?

A. No. indeed.

Plaintiff rests.

The defendant through her counsel moves that the Court instruct the Jury to return a verdict of not guilty against the defendant, on the second count of the indictment, for the reason that the second count of the indictment says that the tickets were procured at Chicago, Illinois; whereas the testimony shows that the tickets were procured if any were procured in the City of Cincinnati.

Motion overruled; exception noted by counsel for defendant.

Counsel for defendant moved that the Court arrest the testimony and instruct the Jury to bring in a verdict of not guilty in the first place, because the law under which the defendant is tried is unconstitutional; secondly, that the testimony in this case shows that tickets were used by one Opal Clark when the entire transaction if any did appear was between the defendant and Jeanette Clark.

Motion overruled; exception noted by counsel for defendant.

### Testimony for the Defendant.

And also Louise Wilson, who being first duly sworn, testified as follows:

Direct examination by Mr. LEVY:

Q. Please tell the Jury your name?

A. Louise Wilson.

Q. You are now the house-keeper, I believe for Emma Harris? A. Yes, sir. Q. Located at 408 George Street?

A. 410.

Q. Miss Wilson in July of 1910 in whose house were you an inmate? .

A. Della Bennett's.

56 Q. When did you first make the acquaintance of the woman who has previously been on the stand?

A. The next day after I went there.

Q. Under what name did she go there?

A. Jeanette Clark.

Q. Did she tell you what her name was?

A. No, sir.

Q. How do you know her name was Jeanette Clark?

A. I heard them call her Jeanette.

Q. Was she known by any other name than Jeanette Clark?

A. No, sir.

Q. And how long were you and she together at Bennett's in July?

A. About four or five weeks as well as I remember.

Q. And did she leave before you did?

A. Yes, sir.

Q. Do you know the circumstances under which she left?

A. Yes sir; she got drunk one night.

Objected to by counsel for U.S.

The Court: It may be stricken out from the record.

Q. When did you next see her this Jeanette Clark?

A. The next time I saw her was in October.

Q. Where did you see her?

A. At Miss Emma Harris' place at 410 George Street.

Q. Did she come there?

A. Yes, sir.

Q. What did she say to you?

Objected to; objection sustained; exception noted by Counsel for defendant.

Q. When did she become an inmate-

The Court: If she said anything to her about the offense that this defendant is charged with or her connection with it, it would be competent, otherwise not.

Mr. LEVY: I will come to that your Honor.

Q. Do you recall when she became an inmate of Emma Harris' house?

A. On October 22d.

Q. And how long did she stay there?

A. Until December 8th.

Q. Did you ask her how she happened to come to Della Bennett's house?

A. I did.

Q. And what did she say to you about that?

Objected to.

Q. Did Jeanette Clark say to you that she and Grace 57 Parks came to the City of Cincinnati the latter part of September or first part of October 1910 voluntarily of their own accord?

A. Yes, sir.
Q. What did she say to you about coming here on tickets?

A. Nothing whatever; she said that she-

Mr. DARBY: Wait a moment—we object to that.

By Mr. LEVY:

Q. Did you ask her how she happened to come to Cincinnati?

A. I did.

Q. What did she say?

Objected to; objection sustained; exception noted by counsel for defendant

Q. Did Jeanette Clark say to you that she and Grace Parks came to the City of Cincinnati, the last time that she came here, that she did not know she was coming to Cincinnati?

A. Yes, sir. Q. And they didn't know they were coming to Cincinnati until they were half way to Cincinnati?

A. Yes, sir.

Q. Did she ever at any time, say to you that she and Grace Parks came here by reason of any tickets that were sent to her by Della Bennett?

Objected to. Question read. Objection sustained; exception noted by counsel for defendant. (Counsel for defendant avows that if the witness were permitted to testify she would testify that Jeanette Clark told her that she did not come to Cincinnati from Chicago on tickets that were sent to her by Della Bennett.)

Q. Miss Wilson, have you had anything to do with persons who were addicted to the dope or opium habit?

Objected to.

A. Yes, sir.

Q. And do you know a person when they are under that influence?

A. Yes, sir.

Q. I will ask you to state to the Jury whether or not you ever saw Jeanette Clark under the influence of dope?

Objected to; objection sustained; exception noted by counsel for defendant.

(Counsel for defendant avows if the witness were permitted to answer she would answer in the affirmative.)

Q. Please state the number of times you saw Jeanette Clark under the influence of dope?

Objected to; objection sustained; exception noted by counsel for defendant. (Counsel for defendant avows if the witness were permitted to testify she would answer seven or eight times.)

Q. I will ask you to state Miss Wilson from your own knowledge of Louise Wilson, whether or not—

The Court: You don't mean that.

Mr. Levy: From your knowledge of her reputation—your personal knowledge—of her personally whether or not you would believe her under oath?

Objected to; objection sustained; exception noted by counsel for defendant.

Q. State to the Jury if you know what the reputation of Jeanette Clark is for truth and veracity if you know what it is?

Objected to; objection sustained; exception noted by counsel for defendant.

(Counsel for defendant avows if the witness were permitted to testify she would answer in the affirmative.)

Q. Do you know what the reputation of Jeanette Clark is in the community where she lives for truth and veracity?

A. Yes, sir.

Q. What is that reputation, good or bad?

# By Mr. DARBY:

Q. For how long a time do you say you have known Jeanette Clark?

A. I met her in July 1910.

Q. And you were associated with her in a house of Prostitution for how long?

A. At Miss Della Bennett's house four or five weeks to my

knowledge.

Q. When did you next become associated with her in a house of prostitution?

A. In October, on October 22d.

Q. And how long did you remain together at that time?

A. Until December the 8th.

Q. How many people dwell in the house of—dwelled in the house of Bennett's when you first met her there?

A. I couldn't say exactly.

Q. About how many? A. Seven or eight.

Q. And how many dwelled in the Harris house?

A. Five or six to my knowledge.

Q. Both of these places were on George Street?

A. Yes, sir. 59

Q. Down on George Street between Smith and Mound or Smith & John?

A. Smith and Central Avenue.

Q. Between Smith and Central Avenue?

A. Yes, sir. Q. And your whole acquaintance with her and her reputation is limited to people who lived in those houses and in that immediate neighborhood?

A. Yes, sir. Q. And opinion and belief you have is not based on opinions of people from any other places than those on Longworth Street?

A. Why yes, I do.
Q. What other places?
A. I know people from other places; there are people who come in those houses that don't live on that street.

Q. And how many people have you talked to with reference to Jeanette Clark's reputation for truth and veracity?

A. Quite a number. Q. In the house there?

A. Yes, sir. Q. Well, now, take the community in general for half a dozen blocks around there, do you mean to say you can tell the estimate of people of her off of George Street?

A. Why certainly. They don't have to come directly off of

George Street.

Q. Do you know where any of the people live who do know her?

A. No sir; I couldn't say exactly the number of the houses or the

name of the street they live in.

Q. You don't know whether they do live? A. No, sir.

Q. Then except what you heard from women and people living in those houses on George Street you don't know anything about her reputation for truth and veracity in that neighborhood?

A. Except from what I heard from other people.

Q. But you don't know where those other people live, or who they are?
A. No sir; I do not; I know their faces but not their names.

By Mr. LEVY:

Q. Please state whether the reputation of Jeanette Clark for truth and veracity is good or bad?

A. Bad. 60 Q. State whether or not her reputation for truth and veracity is such that she can be believed under oath?

A. No sir; she can not.

Q. And Jeanette Clark is the woman who is sitting over there and who testified before?

Yes, sir.

A. Yes, sir.
Q. Miss Wilson, I will direct your attention to the afternoon of December 8th. You recall her being brought into the Emma Harris house by officers Fox and Green of the Cincinnati Police force?

A. Yes, sir.

Q. State whether or not the Clark woman then said to the officers in your presence that it was Emma Harris who sent her the ticket to come to Cincinnati from Chicago?

A. She certainly did.

Q. And state whether or not she said at that time, that you Louise Wilson also sent her tickets to come to Cincinnati?

A. She did.

Q. State whether or not she said at that time that she would get even though she had to lie about it.

A. She did.

Q. And that statement was made in your presence and in the presence also of-

Objected to; objection sustained.

Q. State whether or not while Jeanette Clark was an inmate of the Harris house whether or not she stole a pair of shoes?

Objected to; objection sustained; exception noted.

(Counsel for defendant avows if the witness were permitted to answer she would answer in the affirmative.)

# By Mr. DARBY:

Q. Is Louise Wilson your name?

A. Yes, sir.

Q. How long have you been in this particular line of business?

A. Three years. Q. How old a woman are you?

A. 29.

Q. What was your business before you entered into this life?

A. I am a stenographer.

Q. In Cincinnati?

A. No, sir.

Q. Where was your home? A. Nashville, Tennessee.

Q. Or you a married or a single woman?
A. Single.

Q. You are now the house-keeper of Emma Harris?

A. Yes, sir.

Q. How long have you been in her employ?

A. Since August.

Q. You were not living at the Bennett house then on the first of October?

A. No, sir.

Q. Or about that time?

A. No, sir.

Q. You first became acquainted with Jeanette Clark as you know her in July 1910?

A. Yes sir; or about that time.

Q. Now, when on this day of December 8th when you say that this woman said that Emma Harris and you had sent her the ticket for her to come to this City; that she was going to lie if necessary to get even with you and Harris-

A. She said she would get even, even if she had to lie with me and

Miss Emma.

Q. She would get even with you and Miss Emma even if she had to lie?

A. Yes, sir.

And also, Officer HARRY M. Fox, who being first duly sworn testified as follows:

Direct examination by Mr. LEVY:

Q. Your full name is Harry Fox?

A. Harry M. Fox.

Q. You are a Police Officer of the City of Cincinnati?

A. Yes, sir.

Q. How long have you been such police officer?

A. About six years.

Q. Officer Fox, who was your partner in December, 1910?

A. George W. Green.

Q. And what beat were you patrol-ing in the afternoon of that month?

A. Beat 12.

Q. Describe the boundaries of that beat, will you, please?

- A. From Fifth to Seventh, and from Central Avenue to Smith.
- Q. Will you state to the jury whether or not you and officer 62 Green took this Jeanette Clark out of Whitey's saloon that afternoon and took her to the Emma Harris house?

A. Yes, sir. Q. What did you take her in there for?

Objected to; objection sustained; exception noted by counsel for defendant.

Q. Will you state whether or not, Jeanette Clark on that occasion said to you and officer Green in the presence of Louise Wilson and Emma Harris that Emma Harris had sent her a ticket to come from Chicago to Cincinnati?

A. Well, she stated that to Emma Harris and this Louise Wilson

sent her the tickets to come to Cincinnati from Chicago.

Q. In your presence?

A. Yes, sir.

Q. Did she also state that Louise Wilson had sent her the ticket to come from Chicago to Cincinnati?

A. Yes, sir.

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Cross-examination by Mr. DARBY:

Q. And did she also say that she would get even with Emma Harris and Wilson?

A. She said that going down the steps she said she would get even

if she had to lie to do it.

And also, Officer George W. Green, who being first duly sworn testified as follows:

Direct examination by Mr. LEVY:

Q. Your full name is George W. Green?

A. George W. Green.

Q. You are a police officer of the City of Cincinnati?

A. Yes, sir.
Q. Were you the partner of officer Harry Fox during December 1910?

A. Yes, sir.
Q. That is, you were patrolling the same beat together?

A. Yes, sir.

Q. Officer Green, I will direct your attention to the afternoon of December 8th, and ask you whether you and officer Fox took the Jeanette Clark woman out of Whitey's saloon on George street and took her to Emma Harris' house?

A. Yes, sir.

Q. I will ask you whether or not, Jeanette Clark at that time stated in your presence and in the presence of Officer Fox and in the presence of Louise Wilson that Emma Harris had sent her a ticket to come from Chicago to Cincinnati?

A. Yes, sir. Q. And that Louise Wilson had sent her a ticket to come from Chicago to Cincinnati?

A. Yes. sir.

Cross-examination waived.

And also Joy HANDY, who being first duly sworn testified as follows:

Direct examination by Mr. LEVY:

Q. Your full name is Joy Handy?

A. Joy Handy.

Q. Who do you live now?

A. 426 George Street.

Q. Whose house is that?

A. Alice Mason.

Q. A house of prostitution? A. Yes, sir.

Q. How long have you known Jeanette Clark?

A. I have known her ever since she came to Chicago; I can't say exactly but it was about four or five years ago.

Q. Where did you first meet her?

Objected to; objection sustained; exception noted by counsel for

Contract of the said

defendant. (Counsel for defendant avows if witness were permitted to testify that she would testify she first met Jeanette Clark in Fanny Wilson's house of prostitution in Chicago more than 5 years ago and that they were sporting together.

Q. Miss Handy in the month of September of 1910 what business were you in?

A. I was running a place at 2017 Armour Avenue, Chicago.

Q. What kind of a place was it?

A. Sporting house.
Q. Was Jeanette Clark an inmate of the house at that time?

A. Yes, sir.

Q. You were the landlady?

A. Yes sir; by the name of Handy & Brighton. Q. And it was from there that Jeanette Clark came to Cincinnati?

Objected to.

A. Yes, sir.

Q. I want you to state whether or not, before the Clark woman left for Cincinnati whether or not she told you she was going

to Cincinnati?

A. Well, she said she was thinking of coming back of her own accord, and when I heard they were coming there was something said about Miss Della going to send tickets and I telegraphed to her myself, but never received an answer to my telegram.

Q. Did Jeanette Clark tell you how she came to Cincinnati?

A. She said that she was drunk.

Q. Did she ever say to you that Della Bennett had sent her tickets? A. No sir; only what I overheard the girl talk about it and then I telegraphed.

Q. Did you ask her whether Della Bennett had sent her any

tickets?

Objected to; objection sustained; exception noted.

Q. Now I want you to state to the Jury whether or not you know the reputation of Jeanette Clark?

A. I do.

Q. For truth or veracity?

A. I do.

Q. Is her reputation good or bad?

Q. Is her reputation such that she can be believed under oath?

A. No sir; you can not.

Q. I want you to state Miss Handy as to whether or not this Jeanette Clark had stolen any of your fancy work?

Objected to; objection sustained. (Counsel for defendant avows if the witness were permitted to testify she would answer in the affirmative.)

Q. I will ask you to state whether or not Jeanette Clark admitted

to you that she smoked dope?

Objected to; objection sustained; exception noted by counsel for

defendant. (Counsel for defendant avows if the witness were permitted to testify she would answer in the affirmative.)

Q. I will also ask you to state whether or not Jeanette Clark told you that she was going to the Alhambra Hotel in Chicago and meet men there and smoke dope with them?

Objected to.

A. Yes. sir.

- 65 Objection sustained. Exception noted by counsel for de-(Counsel for defendant avows if the witness were permitted to testify she would answer in the affirmative.)
  - Q. Do you know a woman by the name of Grace Parks?

A. Yes, sir. Q. Was she ever known as Eva Parks to your knowledge?

A. Yes, sir. Q. Where?

Q. 2109 Dearborn street. Q. What is her right name?

A. Her right name is Neva Parks.

Q. State to the Jury whether or not you know as to whether any one induced and persuaded or entired Jeanette Clark to come to Cincinnati when she came here the last time?

Objected to.

A. I do not.

Objection sustained; exception noted by counsel for defendant.

Q. State to the Jury whether or not Jeanette Clark told you that any one had induced, enticed, or persuaded her to come to Cincinnati?

A. No.

Cross-examination by Mr. DARBY:

Q. Before you telegraphed to Cincinnati on the occasion that you didn't get any answer to your message you say that the girls there were talking about Della Bennett going to send for them?

A. Well they had told the girls; there was talk about the house

and Miss Della didn't know I was running that house.

Q. There was some talking about Della sending for girls?

A. Yes, sir.

Q. Who was it talked about it?

A. Yes, sir.
Q. Who?
A. The other girls.

Q. Who?

A. The girls who boarded there.

Q. Jeanette Clark?

A. She must have talked to the rest of the girls because I telegraphed.

66 Q. Jeanette Clark in your house and in your presence in Chicago, talked about Della Bennett either of sending or going to sending for girls?

A. She didn't talk in my presence but the other girls did and I

telegraphed her.

Q. Eva Parks was she one of them? A. Eva Parks was one of them.

Q. And weren't you talking about coming to Cincinnati at that time?

A. I had my place; no. sir.

Q. Were you talking about coming to Cincinnati at that time?

A. I said when I got rid of the place I was coming, yes. Q. Did you say you were coming with Jeanette Clark?

A. I did not; no, sir; I couldn't.

Q. Covering what space of time about how many weeks was this talk going on about girls coming to Cincinnati?

A. Jeanette said several times she wanted to come back with her

wwn accord.

Q. Why did she say that to you?

A. Why because we were two to come together.

Q. Well, can you give us any reason why she would say she was coming with her own accord?

A. I don't know why she should go with her own accord because I never went any place I didn't want to go.

Q. She was perfectly at liberty to go where she pleased?

A. Yes, sir.

Q. And you can't give any explanation why she said to you at that time that she was coming with her own accord to Miss Bennett?

A. Jeanette never spoke to me by that one time.

Q. The question is: "Can you explain why she used to you the expression that she was going with her own accord if she was under no obligation to stay?

A. Because she is always trying to get around to get somebody

roped in to pay her way.

Q. And that is the way; you thought she was trying to rope some one in to pay her wav down?

A. Yes, sir.

Defendant rests.

The above and foregoing was all the evidence offered by either or both of the parties hereto at said hearing.

67 Thereupon the defendants presented the following special charge, separately and in writing and requested the Court to give the same to the Jury. Charges No. 1, No. 2 and No. 8 the Court gave; the charges Nos. 3, 4, 5, 6 and 7, the Court refused to give. The said Special charges are as follows:

No. 1. On the trial of a person accused with crime the law presumes such an accused person to be innocent and that presumption continues to remain until the prosecution proves the guilt of such

accused beyond a reasonable doubt.

No. 2. If the Jury are not satisfied from all of the testimony that has been offered that the accused is guilty and find that there are only strong probabilities of guilt, the only safe course is to acquit

the defendant.

3. The defendant in this case is charged in the first count of the indictment that she unlawfully and knowingly caused to be transported and aided and assisted in obtaining transportation for and in transporting in interstate commerce to-wit: from the City of Chicago, Illinois, to the City of Cincinnati, Ohio, for the purpose of prostitution two women, to-wit: Opal Clark and Eva Park. If the Jury find from the testimony that the said two women or either of them, to-wit: Opal Clark and Eva Park were not transported for the purpose of prostitution from Chicago to Cincinnati then it is your duty to acquit the defendant on the first count of the indictment.

(The Court refused to give the above special charge to all of which

defendant by counsel then and there excepted.)

No. 4. If the Jury find from the testimony that either one of the women, to-wit: Opal Clark or Eva Park were not transported for the purpose of prostitution from Chicago, Illinois, to Cincinnati, Ohio, as is charged against defendant in the first count of the indictment it is your duty to acquit the defendant on said first count of the indictment.

(The Court refused to give the above special charge to all of which

defendant by counsel then and there excepted.)

No. 5. The defendant, Della Bennett is charged in the second count of the indictment with unlawfully and knowingly procuring and obtaining and causing to be procured and obtained at the City of Chicago, Illinois, two certain railroad passenger tickets from the Cleveland, Cincinnati, Chicago & St. Louis Railroad Co., which tickets were for the transportation of one person from Chi-

cago, Illinois, to Cincinnati, Ohio, with the purpose and in-68 tention that said tickets should be used by two women, towit: Opal Clark and Eva Park in going from Chicago, Ill., to Cincinnati, Ohio, for the purpose of prostitution. Before the Jury can convict the defendant you must find from the testimony beyond a reasonable doubt that the defendant unlawfully and knowingly procured and obtained and caused to be procured and obtained the tickets mentioned with the intention that two women, to-wit: Opal Clark and Eva Park should use the same in being transported from Chicago, Ill., to Cincinnati, Ohio, for the purpose of prostitution. If the Jury should not be satisfied beyond a reasonable doubt that such was the intention of the defendant and that both of said women, to-wit: Opal Clark and Eva Park used said tickets with the intention and purpose on the part of Della Bennett that both of said women should use the same for the purpose of prostitution, then it is vour duty to acquit the defendant on the second count of the indictment.

No. 6. The defendant is charged in the third count of the Indictment with unlawfully and knowingly persuading, inducing, enticing and caused to be persuaded, induced and enticed two certain women, to-wit: Opal Clark and Eva Park to go from Chicago, Ill.,

to the City of Cincinnati, Ohio, in interstate commerce for the purpose of prostitution and with the purpose and intention on the part of the defendant that each of said women, to-wit: Opal Clark and Eva Park should engage in the acts of prostitution in the City of Cincinnati. If the Jury find from the testimony that the defendant did not persuade, induce and entice or cause to be persuaded, induced and enticed the two women mentioned, to-wit: Opal Clark and Eva Park to come from Chicago, Ill., to the City of Cincinnati, Ohio, for said unlawful purpose it is your duty to acquit the defendant.

Charges 5 and 6 the Court refused to give to all of which defend-

ant by counsel then and there excepted.

No. 7. If the Jury find from the testimony that only one woman was transported or that the defendant was guilty of the acts charged in all three counts of the indictment against one woman who is mentioned in the indictment and not as against both, it is your duty to acquit the defendant under all counts of the indictment.

Which charge the Court refused to give to which action of the Court the defendant, through her counsel then and there

69 excepted.

No. 8. If the Jury find from the testimony that Opal Clark and Eva Park or either of them came to the City of Cincinnati from Chicago for the purpose of prostitution voluntarily without any assistance from the defendant, Della Bennett, that they came here of their own accord and not by reason of any persuasion or inducement which might have been offered by the defendant, Della Bennett it is your duty to acquit the defendant.

The Court: The General Charge ought to cover No. 1 and the General Charge ought to cover No. 2. No. 3 is the very essence of the offense and in some shape or other it ought to be given. The 4th ought to be given in some shape or other. No. 5 will not be

given. I will only give three in substance.

Thereupon Counsel for the Plaintiff and defendants argued the

case to the Jury.

During the argument of the District Attorney, Mr. McPherson Counsel for the defendant objected to the following statement: "And any man or woman, although she has lived in a house of prostitution can, sometimes, tell the truth; and when she does tell the truth and when her testimony is corroborated by facts that are undisputed, then her testimony must be believed. But, gentlemen, of the Jury, you must remember in this case, that the witness for the government is no better or worse than most of the witnesses for the defendant, or the defendant. There is no difference.

Mr. Levy: I wish to except to the statement by counsel that the prosecuting witness is not any worse than the defendant herself.

Mr. McPherson: If I have overstepped the bounds I withdraw it in reference to the defendant Bennett.

Thereupon, after argument to the Jury by the respective counsel the Court charged the Jury as follows:

### Court's Charge.

GENTLEMEN OF THE JURY:

Your particular attention is directed to the fact that such charges as the United States makes against the defendant, Della Bennett, are those that are contained in the indictment. There are no other charges against her. She is not charged with keeping a house of ill-fame, or fornication, or adultery; or any offense of that kind. She is not on trial for anything of that kind; she is on trial for the offense charged in this indictment, and the government must stand or fall upon the charges contained in this paper—this indictment, and the proof which the government has adduced in support of the indictment.

The indictment only means that it is the way in which the Government of the United States presents its case. That is all. There should be no presumption against a person because an indictment has been found against that person. If a person is charged with an offense against the laws of the United States he is presumed to be innocent until proved to be guilty beyond a reasonable doubt. I shall refer to this later. Therefore we refer to the indictment and see what it is that the United States charges the defendant with; and, in order, that there may be a clear understanding about it I will read the indictment to the Jury in full:

The District Court of the United States for the Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA,
Western Division of the Southern District of Ohio, 88:

In the District Court of the United States within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the Term of February, in the Year of Our Lord One Thousand Nine Hundred and Eleven.

1st Count, Sec. 2, Act of June 25, 1910, 36 Stat. 825, "White Slave Traffic Act.

The Grand Jurors of the United States of America duly empaneled, sworn and charged to inquire with and for the Western Division of said District upon their oaths and affirmations present that Della Bennett on or about to-wit: The Twenty-ninth day of September in the year one thousand nine hundred and ten in the County of Hamilton in the State of Ohio in the Western Division of the Southern District of Ohio and within the jurisdiction of this Court did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for and in transporting in interstate commerce to-wit: from the City of Chicago, in the State of Illinois to and into the City of Cincinnati in the County of Hamilton and State of Ohio and within the Southern Judicial District of said State of Ohio and within the jurisdiction of this Court

two certain women, to-wit: Opal Clark and Eva Parks for the purpose of prostitution, to-wit: for and with the purpose and intention on the part of said Della Bennett that said Opal Clark and Eva Parks and each of them would and should in said City of Cincinnati, State of Ohio engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the Statute in such case made and provided and against the peace and dignity of the United States of America.

2d Count, Sec. 2, Act of June 25th, 1910, 36 Stat., 825,

"White Slave Traffic Act."

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And the Grand Jurors aforesaid upon their oaths and affirmations aforesaid do further present that Della Bennett on or about to-wit: the twenty-ninth day of September in the year one thousand nine hundred and ten in the County of Hamilton in the State of Ohio in the Western Division of the Southern District of Ohio and within and jurisdiction of this Court did then and there unlawfully and knowingly procure and obtain and cause to be procured and obtained at the City of Chicago in the State of Illinois two certain railroad passenger tickets from the Cleveland, Cincinnati, Chicago & St. Louis Railway Company then and there a common carrier of passengers engaged in interstate commerce; each of which said tickets was then and there good for transportation for one person from said City of Chicago in the State of Illinois to the City of Cincinnati, in the State of Ohio upon and over the line and railroad route of said Railway, with the purpose and intention that said tickets should be used by two certain women, to-wit: Opal Clark and Eva Parks in interstate commerce to-wit: in going from said City of Chicago in the State of Illinois to said City of Cincinnati in said State of Ohio for the purpose of prostitution to-wit: for and with the purpose and intention on the part of said Della Bennett that each of said women, to-wit: Opal Clark and Eva Parks would and should in said City of Cincinnati State of Ohio engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, whereby and with the means and by the use of said tickets said Opal Clark and said Eva Parks were then and there and thereupon carried and transported as passengers in interstate commerce over and upon the railway route and line of said Railway Company, to-wit: from said City of Chicago in the State of Illinois to and into said City of Cincinnati in the State of Ohio and within the Southern Judicial District of said State of Ohio and within the Jurisdiction of this Court for the purpose aforesaid; contrary to the form of the statute in such cases made and provided and against the peace and dignity of the United States of America.

3d Count, Sec. 3, Act of June 25, 1910, 36 Stat. 825, White Slave

Traffic Act.

And the Grand Jurors aforesaid upon their oaths and affirmations aforesaid do further present that Della Bennett on or about to-wit: the twenty-ninth day of September, in the year one thousand nine hundred and ten in the County of Hamilton in the State of Ohio in the Western Division of the Southern District of 9-603

Ohio and within the jurisdiction of this Court did then and there unlawfully and knowingly persuade, induce, entice and cause to be persuaded, induced and enticed two certain women to-wit: Opal Clark and Eva Parks to go from one place, to-wit: The City of Chicago in the State of Illinois to another place to-wit: the City of Cincinnati in the State of Ohio within the southern judicial district of said state of Ohio and within the jurisdiction of this Court in interstate commerce for the purpose of prostitution, to-wit: for and with the purpose and intention on the part of said Della Bennett that each of said women, to-wit: Opal Clark and Eva Parks would and should in the said City of Cincinnati State of Ohio engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain with the consent of said Opal Clark and Eva Parks; and did then and there and thereby knowingly cause and aid and assist in causing said women, to-wit: Opal Clark and Eva Parks to go and be carried and transported in interstate commerce as passengers upon and over the railway route and line of The Cleveland, Cincinnati, Chicago and St. Louis Railway Company a common carrier engaged in interstate commerce to-wit: from the said City of Chicago in the State of Illinois to and into the said City of Cincinnati in the State of Ohio for the purpose aforesaid, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America."

I charge you, gentlemen: That this indictment charges three offenses which, if proved by the degree of proof required by the law of the United States, would be an infraction of the laws of the United States, passed by Congress, pursuant to the power granted Congress to regulate Interstate Commerce.

The defendant has pleaded not guilty to the Indictment. Therefore she is presumed to be not guilty until she is proved to be guilty

by the testimony in the case beyond a reasonable doubt.

If upon consideration of the testimony in the case you shall have an abiding conviction, amounting to a moral certainty, that she is guilty as charged in these three different charges in the indictment, or any of them, or one of them, then there is no room for the entertainment of a reasonable doubt and your verdict will be guilty.

But, if, on the other hand, if upon the consideration of the testimony in the case you should not have an abiding conviction, amounting to a moral certainty, that she is guilty as charged in the fact that the convergence of the convergence o

you will find for the defendant.

It is not sufficient that you shall think that there is a strong proba-

bility of guilt.

The United States in making a criminal charge, and charges of this kind, must prove them beyond a reasonable doubt such as I have endeavored to describe that to you. Therefore, you will inquire carefully into the testimony in order to ascertain whether, or not, the charge has been sustained.

There is evidence tending to show that the woman, Clark, was

directed to do certain things—was directed to do these things which are charged in each one of the counts of the indictment. Now, if you should find that to be true from the testimony, then, I charge you that Opal Clark—with respect to Eva Parks, the other woman whose name is used in this indictment, was an accomplice of the defendant, that is to say one who was accessory to the offence, either before or after the act and was a participant in the offence as charged. If you should find that that was so, then she was an accomplice—and under the definition of that term, gentlemen, I charge you that it is never safe to convict a person charged with a felony upon the uncorroborated testimony of an accomplice—necessarily, if you find that she was an accomplice with respect to these charges or any of them you will necessarily then have to inquire into the facts as to whether or not there is corroborating testimony.

There is evidence tending to corroborate her testimony and it is for you to consider its force and value and the weight to give to it.

It is within the province of the jury to convict upon uncorroborated testimony of an accomplice, but it is the duty of the Court to charge the Jury that if the testimony of an accomplice is not corroborated it is never safe to find the defendant guilty. But if the testimony is corroborated then it is for the Jury to say what weight should be given to it; how far it is corroborated and how strong the corroboration is, in determining the question of the guilt of the defendant.

All three counts of the indictment charge offences against the defendant with respect to two women, Opal Clark and Eva Parks. There was no evidence tending to show that the defendant had anything to do with Eva Parks with respect to inducing her of her own act—inducing the woman Eva Parks, or entiting or entiting of the country of the

or enticing, or persuading her to come to the City of Cincinnati. I charge you, gentlemen, in that respect, that the averment of the offences charged against the defendant is first: in causing to be transported the two women for the purposes alleged; secondly, of furnishing transportation-of furnishing tickets in the language of the indictment-procuring or obtaining any ticket, or tickets, or any form of transportation; and thirdly, inducing or persuading or enticing them to come. I may say in that connection, that if it should appear from the testimony; that if you should be of opinion from the testimony, that only one of these women is concerned with any of the offences charged against this defendant, that that would be sufficient to maintain the claim of the government; that is to say it is not necessary it should be proved beyond a reasonable doubt that the defendant was guilty of each one of these offences charged in the indictment with respect to the two, if you judge from the testimony that one of the women was the subject of what the defendant did with respect to what is charged in all of the offences charged in the indictment, or with respect to only one, or only two of them. There is evidence tending to show that the witness, Opal Clark-by her own evidence, went at some time by another name. And that neither of the names, either that of Opal Clark, or the other name Jeanette Clark was her right name, but it was something elseJeanette Laplante or Laplace; but I charge you in that respect, gentlemen, that if you are satisfied from the evidence that Opal Clark, charged in the indictment was one of the women concerned, and Jeanette Clark, or Jeanette Laplante or Laplace are one and the same person, that the indictment is sufficiently explicit upon that point.

The facts are for the jury's determination, and the Jury are to consider every fact and circumstance in the case in order to reach a

proper conclusion.

You must weigh the testimony, and weigh it carefully in order that you may reach the truth, so far as it is possible in any case to reach the truth; but you must endeavor to do so; and it is your province to give as much credence to the witnesses as you please. You are entitled to reject the testimony of any witness altogether, or you may reject a part of it; you may believe a part of the testimony of a witness and reject the rest of the testimony of a witness, and you are to judge of the weight of the evidence. You are to take into consideration all of the circumstances; who the witnesses are, and what their conduct in life is; what their manner on the stand was, what their manner of testifying is, and bearing in mind, at

all times, that any one is presumed to tell the truth. We know they don't always tell the truth—people don't always There may be sometimes reasons and motives that tell the truth. they have which influence them when they are testifying and they may not tell the truth, yet that presumption must be borne in mind

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that they do. If you can find that any motives, in your judgment, operate upon the mind of a witness in such a way as to cause you to believe that her testimony is untruthful, then you are to give weight to such a motive. If you are unable to find any motive operating upon the mind of any witness you are not to bother your mind with the question of motive in determining whether he or she is telling the truth

or not. It undoubtedly is true that people of immoral conduct may nevertheless tell the truth, and yet on the other hand judging of the credibility of a witness you are to bear in mind her life and circumstances all of the circumstances surrounding her and to determine the probability of her telling the truth or not. And when you have weighed all the testimony of all the witnesses you will come to such conclusions as are justified by the testimony in the case under the rules I have given to you.

You will retire to the jury room and return a verdict according to

the law and the evidence.

Mr. LEVY: I want to reserve an exception to your Honor's charge to the jury where you said that there was evidence tending to corroborate the testimony of Clark; and I want to except to that portion of your Honor's charge where you speak about the uncorroborated testimony of an accomplice; and I want to except to that portion of your Honor's charge, that if the jury find that only one woman was transported; and I want to except to your Honor's charge in which you say that if the jury find that Jeanette Clark, or Jeanette Laplante is one and the same person, that is sufficient.

Also a general exception to the charge of your Honor.

Thereupon the Jury retired and upon due deliberation returned a verdict, as appears of record herein.

Thereupon within three days, defendant, through her counsel, filed a motion for a new trial, which motion, upon consideration, the Court overruled, to all of which defendants, by counsel then and there excepted.

And now comes defendant, and presents this her Bill of Exceptions, and prays that the same may be allowed, signed, sealed, settled and made a part of the record herein, all of which is accordingly

done this 21st day of March 1911.

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HOWARD C. HOLLISTER, Judge of the United States District Court. Southern District of Ohio, Western Division.

 $(\mathbf{Ex.}\ 1.)$ 

(Envelope.)

CINCINNATI, O., July 27-1 A. M., 1910. Miss Jeanette Clark, No. 5 W. 21st St., Chicago, Ill. Flat 2.

(Ex. 2.)

(Letter.)

CINCINNATI, O., July 26th. '10.

DEAR JEANETTE: I will answer your most welcome letter which I received the other day. I am ashamed for not answering sooner but I have been so busy. I am not mad at you at all. I have no reason to be mad at you. you never did anything to me at all. I wish you would come back home it is so lonesome here without you your friends come in all the time and ask for you. now Jeanette come back soon be here for the Exposition will you. I know business will be good here then the girls all send their love to you. I have a lot of new girls but all nice ones. Now be sure and come back soon and bring some girls with you. mr. Z is back and looks fine he sends his best to you. I will close. Inez and I are going to Chester Park tonight answer soon and tell me when you are coming. 1 have all your clothes in my room. good by love from all.

Your friend.

DELLA.

Give Joy my best, tell her to write.

(Ex. 3.)

(Envelope.)

CINCINNATI, O., Aug. 4-1 A. M., 1910.

Miss Jeanette Clark, No. 5 W. 21st St., Chicago, Ill. Flat 2.

(Ex. 3-A.)

(Letter.)

CINCINNATI, O., Aug. 3d, 1910.

DEAR JEANETTE: I just received your card and we are all well and hope this letter will find you the same well Jeanette I wish you would hurry and come back we are all lonesome to see you. frouse was in the other night and gave me 50c for you to have a drink when you come back. Now come soon will you.

(Ex. 3-b.)

bring another girl with you or more if you can. Idabelle has been sick but is feeling better now, now jeanette be sure and come back soon. I will close hoping to hear from you soon, now make up your mind to come back soon I will close good by your friend.

MISS DELLA BENNETT,

525 George St.

Come back soon.

77

(Ex. 4.)

(Envelope.)

CINCINNATI, O., Aug. 11, 1 A. M., 1910.

Miss Jeanette Clark, No. 5 W. 21st St., Chicago, Ill., Flat 2.

(Ex. 4-A.)

(Letter.)

CINCINNATI, O., Aug. 10th, '10.

DEAR FRIEND JEANETTE: Just received your letter the other day, well why don't you come back to Cin. we are lonesome for you, business is very good now. Idabelle is well and sends her best regards to you. the weather is fine here. frouse was in last night and went up stairs with Louise. Mr. —— is well and wants you to come back. now when you come bring some girls with you. as I will need lots of girls for the fair. the fair starts 1 week from next Monday. So be sure and come next week sure. Will you now Jeanette

don't disappoint me will you be sure and come next week sure. I will close hoping to here from you at once.

Your friend,

DELLA. Good bye.

(Ex. 5.)

(Letter.)

CINCINNATI, O., Aug. 24th, 1910.

DEAR JEANETTE: I will answer your letter I received a few days ago. I am very sorrow you are sick. And hope by the time this letter reaches you that you will be well and ready to come back to Cincy.

The Exposition opens Monday and business is fine now. Jeanette, I only have 7 girls so try and come and bring some girls with you. If you don't want to come for good just come for the Exposition as things are getting fine now, how jeanette do me this favor and come.

### (Ex. 5-A.)

and help me out will you. I will send tickets for as many girls as you can bring with you. I will not write very much this time but you be sure and come will you. If you will come and help me out I will get you a nice present. Mr. —— sends his love to you and also all the girls. now please come will you. I will close. your true friend.

Miss DELLA BENNETT, 525 George St.

be sure and send me a telegram at once and I will send as many tickets as you need.

78

(Ex. 7.)

(Western Union Telegram Blank.)

SEPT. 27.

Miss Jeanette Clark, No. 5 W. 21st St., Chicago, Ill.:

Answer will I send ticket to you or not. Cincinnati.

DELLA BENNETT, 525 George St.

(Ex. 8.)

(Western Union Telegram Blank.)

CINCINNATI.

Miss Jeanette Clark, No. 5 W. 21st St., Chicago, Ill.:

5 tickets are on way send telegram when you leave. Please rush this.

DELLA BENNETT, 525 George St.

### (Ex. 9.)

(Western Union Telegram Blank.)

9-29.

To Jeanette Clark, No. 5 W. 21st St., Chicago, Ill.:

5 tickets at 12th St. Station, leave there friday to get here Saturday.

DELLA BENNETT.

(Ex. 10)

Form T. D. R.

No. 7268.

The Cleveland, Cincinnati, Chicago & St. Louis Railway Company. New York Central. Lines Cincinnati Northern R. R.

Passenger Department.

Agent's Stub.

9-29-1910.

To A. E. Emerson, Chicago, Ill.:

Received from Mr. Della Bennett whose address is 525 George St., City of Cinti., O., State of Ohio the amount indicated below as "Total Value" to pay for 5 1st class ticket- from Chicago to Cinti. via C. C. & St. L. and (\$—) dollars in cash to be delivered to Miss Jeanette Clark whose address is 5 W. 21st St., City of Chicago, State of Illinois.

Total value (\$30) Thirty-30-100 Dollars.

Remarks: Money received on deposit by Agents of these Lines for tickets and cash to be furnished on this order is accepted as an accommodation to patrons, and such tickets and cash will be furnished as promptly as possible, but only with the understanding that the depositor will assume all responsibility for delays or losses incident to transmission by mails or telegraph, or other errors of whatever nature. These lines will use every possible precaution to insure delivery, only to the party designated, but will not be liable for delivery to wrong party through imposition of any nature. The above is thoroughly understood and agreed to by depositor who

further agrees to pay any difference between amount deposited and Tariff fare, should it develop later that the Agent has through oversight or lack of information collected less

than the authorized Tariff fare.

GEORGE P. PORTER, Agent. DELLA BENNETT, Depositor.

Agent making collection will include this order in monthly Interline ticket report at total amount collected.

R. R.

Form No. — furnished on this order. C. C. C. & St. L. R. R. 8— Sept. 29, 1910, 4

City Office, Cincinnati, O., Not good for Passage on Trains. Not to be Exchanged for Ticket. (Ex. 11.)

C. E. B. New Form 2453
Distribution New York Central Lines
C. C. C. & St. L. Passenger No. 34302

Audited: F. M. Brine The Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.

Auditor Passenger Accounts.

### General Passenger Department.

CINCINNATI, OHIO, Oct. 14, 1910.

To Local Treasurer, The Cleveland, Cincinnati, Chicago & St. Louis R'y Co.:

Pay to the order of Miss Della Bennett Eighteen and no-100 dollars \$18.00.

Not valid if drawn for an amount in excess of twenty-five dollars (\$25) or to the order of cash, the officer signing same or after sixty days from date, unless the time limit is extended in writing by the undersigned.

Payable through the First National Bank of Cincinnati, Ohio. B. S. TANGEMAN, Cashier.

(No Protest.) (Stamp)
C. C. C. & St. L. Ry. Co.
Paid Oct. 18, 1910, Local Treasurer.

(Indorsements:) Miss Della Bennett, I. Zacharow. (Stamp) First National Bank, Paid Cincinnati, Ohio.

### Petition for Writ of Error.

And afterwards, to-wit: on the 22nd day of March, A. D. 1911, the following Petition for Writ of Error was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

80 United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, vs.
DELLA BENNETT, Defendant.

Petition for a Writ of Error.

And now comes Della Bennett, defendant herein, and says that on or about the 23rd day of February, 1911, this Court entered judg-10—603 ment of conviction herein against said defendant, in which judgment and the proceedings had prior thereunto in this cause, certain errors were committed, to the prejudice of this defendant, all of which will more in detail appear from the assignment of errors,

which is filed with this petition.

Wherefore this defendant prays that a writ of error may issue in this behalf out of the United States Circuit Court of Appeals for the Sixth Judicial Circuit, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated, may be sent to the said Circuit Court of Appeals.

MAX LEVY, Attorney for Defendant.

### Assignment of Errors.

And afterwards, to-wit: on the same day, the following Assignment of Errors was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, vs.
Della Bennett, Defendant.

### Assignment of Error.

Now comes Della Bennett, the defendant, by Max Levy, her attorney, and says that in the records and proceedings aforesaid there is manifest error, in this, to-wit:

#### First.

The Court erred in overruling the motion to quash the indictment, as appears of record herein, and to which counsel for defendant then and there excepted.

Second.

The Court erred in overruling the demurrer, filed by the defendants herein, to which ruling counsel for defendant then and there excepted, as appears of record herein.

81 Third.

The Court erred in refusing to grant the motion of the defendant before the impaneling of the jury, that the United States of America be required to elect on which count of the indictment it would try the defendant, to which ruling the defendant, through her counsel, then and there excepted.

#### Fourth.

The Court erred in permitting the envelope, marked "Exhibit No. 1," and first sheet of letter, marked "Exhibit No. 2" and the second sheet of letter, marked "Exhibit No. 2a" and the third sheet of letter, marked "Exhibit No. 2b," as appears on pages 15 and 16 of the bill of exceptions, and in oerruling defendant's objection there's, to which ruling counsel for defendant then and there excepted, as appears of record herein.

#### Fifth.

The Court erred in overruling the motion of the defendant to strike the letter, marked "Exhibit- No. 1," No. 2, No. 2a and 2 b" from the record, as found on page 15 of the bill of exceptions to which ruling of the Court the defendant then and there excepted.

#### Sixth.

The Court erred in permitting the envelope, marked "Exhibit No. 3" and the letter, first page of which is marked "Exhibit No. 3a," and second page marked "Exhibit No. 3b," as appears on pages 17 and 18 of the bill of exceptions, and in overruling defendant's objection to the introduction of the same, to which ruling, counsel for defendant then and there excepted, as appears of record herein.

#### Seventh.

The Court erred in overruling the motion of the defendant to strike the letter marked "Exhibit- No. 4, No. 4 a and No. 4b" from the record, as appears on page 20 of the bill of exceptions, and to which ruling of the Court counsel for defendant then and there excepted, as appears of record herein.

# Eighth.

The Court erred in permitting the letter marked "Exhibit No. 5 and Exhibit No. 5a" to be read in evidence, and in overruling defendant's objection thereto, and to which ruling counsel for defendant then and there excepted, as appears of record herein on pages 20 and 21 of the bill of exceptions.

82 Ninth.

The Court erred in permitting the witness, Opal Clark, to answer the following question as appears on page 24 of the bill of exceptions:

"What did you tell her in that letter?" and in overruling defendant's objection thereto, and to which ruling counsel for defendant then and there excepted, as appears of record herein.

#### Tenth.

The Court erred in permitting the witness, Opal Clark, to answer the following question, as appears on the bottom of page 24 of the bill of exceptions: "What did you say in that letter?" and in overruling defendant's objection thereto, and to which ruling counsel for defendant then and there excepted, as appears of record herein.

#### Eleventh.

The Court erred in permitting the witness, Opal Clark, to answer the following question, as appears on page 28 of the bill of exceptions:

"State whether or not any consideration was paid to you for receiving men, as you have described, at the house of Della Bennett, after you arrived at Cincinnati?" and in overruling defendant's objection thereto, to which ruling counsel for defendant then and there excepted, as appears of record herein.

#### Twelfth.

The Court erred in permitting the witness, Opal Clark, to answer the following question, as appears on page 29 of the bill of exceptions:

"Now, what, if any, conversation did you have with Miss Bennett after your arrival here with reference to sending of tickets to Chicago?" and in overruling defendant's exception thereto, to which counsel for defendant then and there excepted, as appears of record herein.

### Thirteenth.

The Court erred in refusing the following question to be asked the witness, Opal Clark, on cross-examination, as appears on page 41 of the bill of exceptions:

"Didn't you tell Louise Wilson that this George was sent to the penitentiary for violating the age of consent law of two little girls?" and to which ruling of the Court, counsel for defendant then and there excepted, as appears of record herein.

#### Fourteenth.

The Court erred in permitting the witness, Opal Clark, to answer the following question, as appears on page 49 of the bill of exceptions:

83 "Just read the message you have to yourself, and then just state whether you received such a message in Chicago?" and in overruling defendant's objection thereto, to which counsel for defendant then and there excepted, as appears of record herein.

#### Fifteenth.

The Court erred in overruling the motion of the defendant that the telegram, marked "Exhibit No. 7," as appears at the bottom of page 49, and top of page 50 of the bill of exceptions, be stricken from the record, to which ruling of the Court counsel for defendant then and there excepted, as appears of record herein.

#### Sixteenth.

The Court erred in permitting the telegram, marked "Exhibit No. 8" to be read in evidence over the objection of the defendant, as appears at the bottom of page 50, and the top of page 51 of the bill of exceptions, to which ruling counsel for defendant then and there excepted.

#### Seventeenth.

The Court erred in permitting the telegram, marked "Exhibit No. 9" to be read in evidence, as appears on page 51 of the bill of exceptions, over the objection of the defendant, and to which counsel for defendant then and there excepted, as appears of record herein.

### Eighteenth.

The Court erred in overruling the motion of the defendant to have the telegram, marked "Exhibit No. 9" stricken from the record, and to which ruling counsel for defendant then and there excepted, as appears of record herein.

### Nineteenth.

The Court erred in permitting the witness, Walter J. Wood, to

answer the following question:

"Will you state what occurred in your office as between you and the person who signed the name there as depositor?" over the objection of the defendant, and to which counsel for defendant then and there excepted, as appears on page 68 of the bill of exceptions.

### Twentieth.

The Court erred in permitting the document, marked "Exhibit No. 10" to be read, as appears on pages 69 and 70 and 71 of the bill of exceptions, and in overruling defendant's objection thereto, and to which counsel for defendant then and there excepted, as appears on page 71 of the bill of exceptions.

# Twenty-first.

The Court erred in overruling the motion of the defendant to strike from the record "Exhibit No. 10," as appears on page 71 of the bill of exceptions, to which counsel for defendant 84 then and there excepted.

# Twenty-second.

The Court erred in permitting the document to be read in evidence, as found on pages 73 and 74 of the bill of exceptions, and in overruling defendant's objection thereto, to which counsel for defendant then and there excepted.

# Twenty-third.

The Court erred in overruling the motion of the defendant to strike said document from the record, as appears on page 74 of the

bill of exceptions, to which ruling, counsel for defendant then and there excepted, as appears of record herein.

### Twenty-fourth.

The Court erred in overruling the motion of the defendant, at the conclusion of the testimony of the plaintiff, to instruct the jury to return a verdict of not guilty against her on the second count of the indictment, and to which ruling counsel for defendant then and there excepted, as is found on page 76 of the bill of exceptions.

### Twenty-fifth.

The Court erred in overruling the motion of counsel for defendant at the conclusion of the testimony of plaintiff, to instruct the jury to bring in the verdict of not guilty, for the following reasons:

(1) Because the law under which the defendant was tried was un-

constitutional:

(2) Because the testimony in the case showed that the tickets were used by one Opal Clark, when the entire transaction, if any, occurred, was between the defendant and Jeanette Clark.

to which ruling counsel for defendant then and there excepted as appears on page 77 of the bill of exceptions.

### Twenty-sixth.

The Court erred in refusing the following question to be asked the witness, Louise Wilson, as appears on page 81 of the bill of ex-

ceptions:

Did she ever, at any time, say to you that she (meaning Jeanette Clark) and Grace Parks came here by reason of any tickets that were sent to her by Della Bennett?" and to which ruling, counsel for defendant then and there excepted, and counsel for defendant then and there avowed that if the witness were permitted to testify, she would testify that Jeanette Clark told her that she didn't come to Cincinnati from Chicago on tickets that were sept to her by Della Bennett.

# Twenty-seventh.

The Court erred in refusing the following question to be asked the witness, Louise Wilson, as appears on page 81 of the bill of ex-

ceptions:

"I will ask you to state to the jury whether or not you ever saw Jeanette Clark under the influence of dope?" and to which ruling. counsel for defendant then and there excepted, and avowed that if the witness were permitted to answer, she would answer in the affirmative.

#### Twenty-eighth.

The Court erred in refusing the following question to be asked the witness, Louise Wilson, as appears on page 82 of the bill of exceptions:

Please state the number of times you saw Jeanette Clark under

the influence of dope," and to which ruling counsel for defendant then and there excepted, and avowed that if the witness were permitted to testify, she would answer "Seven or eight times."

#### Twenty-ninth.

The Court erred in refusing the following question to be asked the witness, Louise Wilson, as found on page 86 of the bill of excep-

ions:

"State whether or not, while Jeanette Clark was an inmate of the Harris home, whether or not she stole a pair of shoes?" to which ruling, counsel for defendant then and there excepted and avowed that if the witness were permitted to answer, she would answer in the affirmative.

#### Thirtieth.

The Court erred in refusing the following question to be asked the witness, Joy Handy, as appears on page 94 of the bill of exceptions:

"I want you to state, Miss Handy, as to whether or not this Jeanette Clark had stolen any of your fancy work?" to which ruling, counsel for defendant then and there excepted and avowed that if the witness were permitted to answer, she would answer in the affirmative.

#### Thirty-first.

The Court erred in refusing the following question to be put to the witness, Joy Handy, as appears on page 94 of the bill of exceptions:

"I will ask you to state whether or not Jeanette Clark admitted to you that she smoked dope?" to which ruling, counsel for defendant then and there excepted and avowed that if the witness were permitted to testify, she would answer in the affirmative.

#### Thirty-second.

The Court erred in refusing the following question to be asked the witness, Joy Handy, as appears on page 94 of the bill of exceptions:

"I will ask you to state whether or not Jeanette Clark told you that she was going to the Alhambra Hotel in Chicago and meet men there and smoke dope with them?" to which ruling of the Court, counsel for defendant then and there excepted, and avowed that if the witness were permitted to testify, she would answer in the affirmative.

### Thirty-third.

The Court erred in refusing to give to the jury, at the request of

the defendant, the following special charge No. 3:

"The defendant in this case is charged in the first count of the indictment, that she unlawfully and knowingly caused to be transported, and aided and assisted in obtaining transportation for and in transporting in interstate commerce, to-wit, from the City of Chicago, Illinois, to the City of Cincinnati, Ohio, for the purpose of prostitution, two women, to-wit, Opal Clark and Eva Park. If the jury find from the testimony that the said two women, or either of

them, to-wit, Opal Clark and Eva Park, were not transported for the purpose of prostitution from Chicago to Cincinnati, then it is your duty to acquit the defendant on the first count of the indictment."

To the refusal of the Court in giving the above special charge No. 3, counsel for defendant then and there excepted, as appears on

page 99 of the bill of exceptions.

#### Thirty-fourth.

The Court erred in refusing to give special charge No. 4 to the

jury, as requested by counsel for defendant, as follows:

"If the jury find from the testimony that either one of the women, to-wit, Opal Clark or Eva Park, were not transported for the purpose of prostitution from Chicago, Illinois, to Cincinnati, Ohio, as is charged against the defendant in the first count of the indictment, it is your duty to acquit the defendant on said first count of the indictment."

To the refusal of the Court in giving the said special charge No. 4, coursel for defendant then and there excepted, as appears on page

99 of the bill of exceptions.

#### Thirty-fifth.

The Court erred in refusing to give special charge No. 6 to the jury, as requested by counsel for defendant, as follows:

ment with unlawfully and knowingly persuading, inducing, enticing, and caused to be persuaded, induced and enticed two certain women, to-wit, Opal Clark and Eva Park, to go from Chicago Ill., to the City of Gincinnati, Ohio, in interstate commerce for the purpose of prostitution, and with the purpose and intention on the part of the defendant that each of said women, to-wit, Opal Clark and Eva Park, should engage in the acts of prostitution in the City of Cincinnati. If the jury find from the testimony that the defendant did not persuade, induce and entice, or cause to be persuaded, induced and enticed the two women mentioned, to-wit, Opal Clark and Eva Park, to come from Chicago, Ill., to the City of Cincinnati, Ohio, for said unlawful purpose, it is your duty to acquit the defendant."

To the refusal of the Court to give said special charge No. 6 to the jury, as requested, counsel for defendant then and there ex-

cepted, as appears of record.

## Thirty-sixth.

The Court erred in refusing to give special charge No. 7, as re

quested by counsel for defendant, as follows:

"If the jury find from the testimony that only one woman was transported, or that the defendant was guilty of the acts charged it all three counts of the indictment against one woman who is mentioned in the indictment and not against both, it is your duty to acquit the defendant under all counts of the indictment."

To the refusal of the Court to give said special charge No. 7, a

requested, counsel for defendant then and there excepted, as appears of record.

Thirty-seventh.

Mis-conduct on the part of the District Attorney in using the following language to the jury in his argument, to which language counsel for defendant then and there excepted, as appears on page

102 of the bill of exceptions:

"And any man, or woman, although she has lived in a house of prostitution, can sometimes tell the truth; and when she does tell the truth and when her testimony is corroborated by facts that are undisputed, then her testimony must be believed, but, gentlemen of the jury, you must remember in this case that the witness for the government is no better or worse than most of the witnesses for the defendant, or the defendant. There is no difference."

#### Thirty-eighth.

The Court erred in charging the jury in its general charge, as follows:

88 "There is evidence tending to corroborate her testimony, and it is for you to consider its force and value and the weight to give it."

To which charge, counsel for defendant excepted in the presence

of the jury, as appears of record herein.

#### Thirty-ninth.

The Court erred in charging the jury in its general charge, as

follows:

"It is within the province of the jury to convict upon uncorroborated testimony of an accomplice, but it is the duty of the Court to charge the jury if the testimony of an accomplice is not corroborated, it is never safe to find the defendant guilty. But if the testimony is corroborated, then it is for the jury to say what weight should be given to it; how far it is corroborated and how strong the corroboration is, in determining the question of the guilt of the defendant."

To which charge, counsel for defendant excepted in the presence

of the jury, as appears of record herein.

#### Fortieth.

The Court erred in its general charge to the jury, as follows:

"All three counts of the indictment charge offenses against the defendant with respect to two women, Opal Clark and Eva Park. There is no evidence tending to show that the defendant had anything to do with Eva Park with respect to inducing her of her own act—the defendant of her own act—inducing the woman Eva Park, or enticing, or persuading her to come to the City of Cincinnati, Ohio. I charge you, gentlemen, in that respect that the gravaman of the offenses charged against the defendant is, first, in causing to be transported women for the purposes alleged; secondly, of furnishing transportation—furnishing tickets in the language of the indictment—procuring or obtaining any ticket or tickets, or any form of

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transportation, and thirdly, inducing, persuading or enticing them to come. If you shall be of the opinion with respect to carrying these two women from Chicago to Cincinnati,—I may say in that connection, that if it should appear from the testimony that only one of these women is concerned with any of the offenses charged against this defendant, that that would be sufficient to maintain the claim of the government that is to say, it is not necessary it should be proved beyond a reasonable doubt that the defendant was guilty of each one of these offenses charged in the indictment with respect to

the two. If you judge from the testimony that one of the women was the subject of what the defendant did with respect to what is charged in all of the offenses charged in the indictment, or with respect to only one, or only two of them, \* \*"

To which portion of the charge, counsel for defendant excepted in

the presence of the jury.

#### Forty-first.

The Court erred in its general charge to the jury, as follows:
"There is evidence tending to show that the witness Opal Clark,
by her own evidence, went sometime by another name, and that
neither of the names, either that of Opal Clark, or the other name
Jeanette Clark was her right name, but it was something else, Jeanette Laplant or Laplace; but I charge you in that respect, gentlemen, that if you are satisfied from the evidence that Opal Clark
charged in the indictment was one of the women concerned, and

Jeanette Clark, or Jeanette Laplant, or Laplace, are one and the same person, that the indictment is sufficiently explicit upon that point."

Counsel for defendant excepted to that portion of the Court's charge, herein mentioned, in the presence of the jury.

## Forty-second.

The Court erred in overruling the motion in arrest of judgment, to which the defendant excepted, as appears of record herein.

## Forty-third.

The verdict and judgment rendered herein is contrary to law.

## Forty-fourth.

The verdict and judgment rendered herein is contrary to the law and not sustained by the evidence.

## Forty-fifth.

The verdict does not establish the guilt of the defendant beyond a reasonable doubt.

Forty-sixth.

For other reasons apparent upon the face of the record.

Wherefore, defendant prays that said judgment of the District Court may be reversed.

Attorney for Defendant.

#### Entry, 10-340.

And afterwards, to-wit: on the same day, an Entry was made upon the Journal of said Court in said cause, which said 90 Entry is clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA, Plaintiff, vs.
DELLA BENNETT, Defendant.

Entry Allowing Writ of Error.

This 22nd day of March, 1911, came Della Bennett, defendant herein, by her attorney, and filed herein and presented to the Court her petition, praying for the allowance of a writ of error, an assignment of errors intended to be urged by her, praying, also, that a transcript of the record and the proceedings and papers, upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Sixth Judicial Circuit, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the Writ of Error upon the defendant giving bond, according to law, in the sum of Three Thousand (\$3,000.00) Dollars, which shall operate as a

supersedeas bond.

#### Præcipe.

And afterwards, to-wit: on the same day, the following Precipe was filed in the Clerk's Office of said Court, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA VS.
DELLA BENNETT.

To B. E. Dilley, Clerk of said Court:

Please prepare a certified copy of the record and proceedings in the above entitled cause to be filed in the Circuit Court of Appeals on proceedings in error.

MAX LEVY, Attorney for Defendant.

#### Bond on Writ of Error.

And afterwards, to-wit, on the same day, the following Bond on Writ of Error was filed in the Clerk's Office of said Court clothed in the words and figures following, to-wit:

91 District Court of the United States, Southern District of Ohio, Western Division, ss:

No. 797.

THE UNITED STATES OF AMERICA VS.
DELLA BENNETT.

Know all men by these presents:

That we Della Bennett, as principal, and Hattie Fuller and J. T. Patterson as sureties, are held and firmly bound unto The United States of America in the sum of Three Thousand (3,000)) Dollars,

to be paid to the said The United States of America.

To which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals. Dated this 25th day of March, 1911. Whereas, the above named Della Bennett has taken out a Writ of Error to the Circuit Court of Appeals of the United States for the Sixth Circuit to reverse the judgment in the above entitled action by the District Court of the United States, for the Southern District of Ohio.

Now, therefore, the condition of this obligation is such, that if the above named Della Bennett shall prosecute her said Writ to effect and shall abid the judgment of the said Circuit Court of Appeals of the United States then this obligation to be void; other-

wise to remain in full force and virtue.

DELLA BENNETT. [SEAL.] HATTIE FULLER. [SEAL.] J. T. PATTERSON. [SEAL.]

Sealed and delivered in presence of HARRY F. RABE. MAX LEVY.

The above security is approved.

HOWARD C. HOLLISTER,
District Judge of the United States, S. D. Ohio.

UNITED STATES OF AMERICA,
Southern District of Ohio, 88:

I, Hattie Fuller one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Ten Thousand (\$10,000.00) Dollars in real estate in my own name; situate in the County of Hamilton in said District.

HATTIE FULLER.

Sworn to before me the 25th day of March, 1911.

[SEAL.]

| HARRY F. RABE,
| Deputy Clerk U. S. District Court, S. D. O.

#### 92 SOUTHERN DISTRICT OF OHIO:

I, John T. Patterson one of the sureties above named, do solemnly swear that after paying my just debts and liabilities, I am worth Six Thousand (\$6,000.00) Dollars in real estate in my own name, situate in the County of Hamilton in said District.

J. T. PATTERSON.

Sworn to before me the 25th day of March, 1911.

[SEAL.]

HARRY F. RABE,

Deputy Clerk U. S. District Court, S. D. O.

United States District Court, Southern District of Ohio, Western Division.

No. 797.

THE UNITED STATES OF AMERICA, Plaintiff, vs. DELLA BENNETT, Defendant.

United States of America, Southern District of Ohio, 88:

I, B. E. Dilley, Clerk of the Court aforesaid, do hereby certify that the foregoing is a true, correct and complete Transcript of the Record and Proceedings had by and before the said Court, in the above entitled cause, as the same appear of record and on file in the Clerk's Office of said Court.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court at Cincinnati, Ohio, this 20th day of April, A. D.,

1911.

SEAL.

B. E. DILLEY, Clerk, By HARRY F. RABE, Deputy.

Writ of Error.

United States Circuit Court of Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, Sixth Judicial Circuit, 88:

The President of the United States to the Honorable the Judge of the District Court of the United States for the Southern District of Ohio, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, or some of you, between The United States of America and

Della Bennett a manifest error hath happened, to the great damage of the said Della Bennett as by her complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals for the Sixth Circuit, together with this writ, so that you have the same at Cincinnati, in said Circuit, on the 24th day of April next, in the said Circuit Court of Appeals, to be then and there held, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, the 25th day of March, in the year of our Lord one thousand nine hundred and eleven, and of the Independence of the

United States of America the one hundred and thirty-fifth.

B. E. DILLEY,
Clerk of the District Court of the United
States for the Southern District of Ohio.

Allowed by
HOWARD C. HOLLISTER,
Judge of the District Court of the United States
for the Southern District of Ohio.

\* Not exceeding 30 days from the day of signing the citation.

United States Circuit Court of Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, Sixth Judicial Circuit, ss:

To The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a session of the United States Circuit Court of Appeals for the Sixth Circuit, to be holden at the City of Cincinnati, in said Circuit, on the\* 24th day of April next, pursuant to a Writ of Error, filed in the Clerk's Office of the District Court of the United States for the Southern District of Ohio, wherein Della Bennett is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error

as in the said writ of error mentioned, should not be cor-94 rected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward D. White, Chief Justice of the United States, this 25th day of March, in the year of our Lord one thousand nine hundred and eleven, and of the Independence of the United States of America the one hundred and thirty-fifth.

HOWARD C. HOLLISTER,

Judge of the District Court of the United States
for the Southern District of Ohio.

Service of the within citation is hereby acknowledged, and appearance entered on behalf of the United States of America, the 27th day of March, 1911.

SHERMAN T. McPHERSON, United States Attorney in and for the Southern District of Ohio.

<sup>\*</sup> Not exceeding 30 days from the day of signing.

95 87

And afterwards towit on May 2 1911, præcipe for appearance of counsel was filed in said cause which reads and is as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2178.

DELLA BENNETT
vs.
THE U. S. OF AMERICA.

Frank O. Loveland, Clerk of said Court:

Please enter my appearance as counsel for the plaintiff in error.

MAX LEVY.

And afterwards towit: on February 13, 1912, an entry was made upon the Journal of said Court in said cause clothed in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2177.

EMMA HARRIS, alias EMMA R. SMITH, and BESSIE GREEN vs.
UNITED STATES OF AMERICA,

and

#2178.

DELLA BENNETT
vs.
United States of America.

Before Warrington, Knappen and Denison, C. JJ.

These causes are argued together by Mr. Max Levy for the plaintiffs in error and are continued until tomorrow for further argument.

And afterwards towit on February 14, 1912, an entry was made upon the Journal of said Court in said causes which is in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2177.

EMMA HARRIS, alias EMMA R. SMITH, and Bessie Green vs.
UNITED STATES OF AMERICA,

and

#2178.

DELLA BENNETT
VS.
UNITED STATES OF AMERICA.

These causes are further argued by Mr. Max Levy for the plaintiffs in error and by Mr. Thomas L. Darby, Assistant United States Attorney, for the defendant in error and are submitted to the Court.

And afterwards towit on March 5 1912, judgment was entered in this cause clothed in the words and figures as follows:

United States Circuit Court of Appeals for the Sixth Circuit.

#2178.

DELLA BENNETT
VS.
UNITED STATES OF AMERICA.

Error to the District Court of the United States for the Southern District of Ohio.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the Southern District of Ohio and was argued by counsel.

On Consideration Whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court in this

cause be and the same is hereby affirmed.

And on the same day, towit March 5 1912, an opinion was filed in said cause which reads and is as follows:

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#### Opinion.

Filed Mar. 5, 1912. Frank O. Loveland, Clerk.

United States Circuit Court of Appeals, Sixth Circuit.

No. 2178.

DELLA BENNETT, Plaintiff in Error, vs. UNITED STATES OF AMERICA, Defendant in Error.

Error to the District Court of the United States for the Southern District of Ohio.

Submitted February 14, 1912. Decided March —, 1912.

Before Warrington, Knappen and Denison, Circuit Judges.

Respondent was, upon her plea of not guilty, convicted of violating the Act of June 25, 1910, commonly known as the "White Slave Act." The testimony indicated that she was the keeper of a house of prostitution in Cincinnati; that in the summer of 1910, a former inmate of her house, then known to her by the name of Jeanette Clark, was in a similar house in Chicago; that respondent sent to Jeanette Clark several letters and telegrams asking her to return and bring other girls with her; that finally respondent sent railroad tickets for this purpose, and Jeanette Clark and Eva Parks used the tickets to come from Chicago to Cincinnati, and entered and remained in the Bennett house. The errors assigned are upon the constitutionality of the law and upon some questions of evidence.

DENISON, Circuit Judge (after stating the facts as above):

It is clear that the power of congress to pass this statute must be found in its power to regulate commerce. The arguments of counsel for plaintiff in error, as we understand them, are that commodities only, and not persons, can be the subject of commerce; that persons cannot be prohibited from traveling from one state to another because of some intention they may have; that the woman herself is not by this act forbidden to travel, and it cannot be a criminal act to aid an unforbidden act; and that the law is an invasion of the police powers of the states.

It cannot now be doubted that transportation, of persons as well as of property, is commerce, and that congress may regulate the interstate transportation of persons (Glouchester Ferry Co. vs. Pennsylvania, 114 U. S. 196, 203; Covington Bridge Co. vs. Kentucky, 154 U. S. 204, 217; see also the cases involving passenger traffic

under the Interstate Commerce Acts.)

It is also settled that the constitutional power to regulate includes

the power to prohibit, in cases where such prohibition is in aid of the lawful protection of the public. (The Lottery Case, 188 U. S.

321, 354).

We think it a mistake to assume that this statute does not prohibit, and so impliedly permits, the primary act and yet punishes as a crime a merely incidental wrong. The act does not undertake to prohibit the woman from traveling from one state to another of her own volition, and in the supposed exercise of her inherent personal rights, no matter what her purpose as to her future conduct may be. This conclusion is emphasized by observing that the woman traveling may be perfectly innocent of any intended immorality, and that the act cannot be intended to interfere with liberty of travel by such person. The primary thing forbidden is the inducing of a person to come into the state, with unlawful purpose by the inducer and in aid of such unlawful purpose, but without direct regard to the innate character or purpose of the person induced. It is this primary thing and for incidental transportation by the carrier, which are forbidden and penalized.

We do not find in the statute either the purpose or the effect to interfere with the police powers of the state. The law is directed only against the inducing or performing of interstate transportation; and this entire subject-matter is obviously not within the scope of the police power of any state; hence, its exercise cannot be an invasion of such power. It may well be assumed that the laws of all states prohibit, as those of Ohio do, the various ultimate acts of immorality referred to in this statute, and it follows that the law in question is in aid of the complete and effective exercise by the states of their respective police powers; and is of the same class as many acts of congress in recent years having the same general purpose (see enumeration of such acts in U. S. vs. Hoke, 187 Fed. Rep.,

992, 1000, 1003).

We conclude that the act is not open to the constitutional objec-

tions presented.

Respondent urges that while she was indicted for causing the interstate transportation of Opal Clark, and it was not alleged that Opal Clark had, in fact or by repute, any other name, the evidence showed the transportation of a woman who was known to respondent as Jeanette Clark, and whose real name was wholly different. This is said to be a variance between allegation and proof; and we are cited to cases in text books and reports to the effect that the indictment should contain the true name of the individual affected by the crimi-It is not necessary to review these cases. Some of them were decided under stricter rules of pleading than this court has ap-The essential things involved are that the record should be in such shape as to protect the respondent against a second prosecution for what is really the same offense, and as fairly to inform respondent of the crime intended to be alleged. These considerations involve the question of the identity of the person named-either actual identity or identity as supposed by respondent. Whatever obstacles, if any, there might be in afterwards interpreting and applying the record of indictment and judgment by parol testimony, 99 91

as must be and is done with reference to civil judgments, we find in this case that the bill of exceptions is now a part of the record as much as is the indictment or the judgment, and that by the whole record there clearly appears the entire identity of the person named in the indictment with the person whom respondent must have known to be the one intended to be named and with the person who was actually transported. This leaves no possible ground for prejudice resulting from the double variance between the name used in the indictment and the name known to respondent and the real name.

Respondent further urges that while the indictment charges the transporting of two persons for the purpose stated, the proof wholly failed as to one of them. This also amounts to a claim of variance between allegation and proof. If we accept the claim that the proof did so fail, still we would not think the variance fatal. tion of the statute is complete if one person is transported, and the fact that two persons are named in the same count instead of basing a separate count upon the travel of each person should not be fatal to a conviction. It is true that where two persons are named as the subject of the defense, and it is proved as to one of them only, there is a seeming variance, but it is really a failure of proof as to a thing which it was not necessary to allege. The only points here, which are of substance and not of form, are, as with reference to the last matter discussed, the question of misleading the respondent and the question of protection against a future prosecution. It is clear that respondent would not be misled unless there were two occasions so as to give rise to some ambiguity, and no such thing here appears It is true also that as to the person concerning whom the proof failed, the record would show a conviction which was insofar really unauthorized, but the protection against a future prosecution would be just as perfect, and it cannot be presumed that the action of the trial court, in possession of all the facts, would be prejudicially affected in the matter of sentence. In these respects, the case is within the rule that a general conviction and sentence upon several counts will not be disturbed because all but one of the counts are bad, provided the good counts supports the sentence (Claassen vs. U. S., 142 U. S. 140, 146; Hardesty vs. U. S., C. C. A. 6, 168 Fed. Rep. 25, 26).

The judgment will be affirmed.

And afterwards towit on March 18, 1912, a petition for writ of error was filed which reads and is as follows:

Supreme Court of the United States.

No. --

DELLA BENNETT, Plaintiff in Error, THE UNITED STATES OF AMERICA, Defendant in Error.

Petition for Writ of Error.

Your petitioner, Della Bennett, plaintiff in error in the above entitled cause, respectfully shows that the above entitled cause is now pending in the United States Circuit Court of Appeals for the Sixth Circuit, No. 2178, and that a judgment has therein been rendered on the 5th day of March, 1912, affirming a judgment of the District Court of the United States for the Southern District

of Ohio, Western Division.

That the jurisdiction of none of the courts above mentioned is or was depending in anywise upon the opposite parties to the suit or controversy being aliens and citizens of the United States or citizens of the different states; that the constitutionality of a Federal Statute is involved in this cause and that it is a proper case to be reviewed by the Supreme Court of the United States upon writ of error; and therefore your petitioner would respectfully pray that a writ of error be allowed her in the above entitled cause, directing the Clerk of the United States Circuit Court of Appeals for the Sixth Circuit to send the record and proceedings in said cause with all things concerning the same, to the Supreme Court of the United States, in order that the errors complained of in the assignment of errors herewith filed by the said plaintiff in error may be reviewed, and if error be found, corrected according to the laws and customs of the United States, and for a stay of proceedings and for a stay of execution.

DELLA BENNETT. Plaintiff in Error, By MAX LEVY, Her Attorney.

The foregoing petition is granted, and a writ of error allowed, as prayed for.

HORACE H. LURTON. Justice United States Supreme Court.

Mch. 12/1912.

And on the same day, towit on March 18, 1912, an assignment of errors was filed in said cause which reads and is as follows:

#### Supreme Court of the United States.

No. ---

DELLA BENNETT, Plaintiff in Error,
vs.
THE UNITED STATES OF AMERICA, Defendant in Error.

#### Assignment of Errors.

And now comes the plaintiff in error, Della Bennett, and says that in the record and proceedings aforesaid in the United States Circuit Court of Appeals for the Sixth Circuit, No. 2178, in the above entitled cause, and in the rendition of the judgment therein, manifest error has intervened to the prejudice of said plaintiff in error, in this towit:

First. Said Circuit Court of Appeals erred in entering judgment affirming the judgment of the District Court of the United States for the Southern District of Ohio, Western Division, in favor of said defendant in error, and against said plaintiff in error.

Second. Said Circuit Court of Appeals erred in not reversing the said judgment of the United States District Court aforesaid, and in not remanding said cause to said District Court for a new trial.

Third. Said Circuit Court of Appeals erred in not sustaining the

second assignment of error upon the record in said cause.

Fourth. Said Circuit Court of Appeals erred in overruling the twenty-fourth assignment of error upon the record in said cause.

Fifth. Said Circuit Court of Appeals erred in not sustaining the

twenty-fifth assignment of error upon the record in said cause.

Sixth. Said Circuit Court of Appeals erred in not sustaining the thirty-third assignment of error upon the record in said cause.

Seventh. Said Circuit Court of Appeals erred in not sustaining the thirty-fourth assignment of error upon the record in said cause.

Eighth. Said Circuit Court of Appeals erred in not sustaining the thirty-fifth assignment of error upon the record in said cause.

Ninth. Said Circuit Court of Appeals erred in not sustaining the thirty-sixth assignment of error upon the record in said cause.

Tenth. Said Circuit Court of Appeals erred in not sustaining the

forty-second assignment of error upon the record in said cause.

Eleventh. Said Circuit Court of Appeals erred in rendering

Eleventh. Said Circuit Court of Appeals erred in rendering judgment against the plaintiff in error and in favor of defendant in error.

Wherefore, the said Della Bennett, plaintiff in error, prays that for the errors aforesaid, and other errors appearing in the record of the said United States Circuit Court of Appeals, in the above entitled cause, to the prejudice of the plaintiff in error, the said judgment of the said United States Circuit Court of Appeals be reversed, annulled, and for naught esteemed, and that said cause be remanded to the United States District Court for the Southern District, with instructions to grant a new trial in said cause, or for such further

proceedings in said cause as may be determined upon by this Honorable Court, to the end that justice may be done in the premises.

MAX LEVY, Attorney for Plaintiff in Error.

And on the same day, towit, March 18, 1912, bond was filed in said cause clothed in the words and figures as follows:

Know all men by these presents, That we, Della Bennett, as principal, and Maryland Casualty Company, as sureties, are held and firmly bound unto The United States of America in the full and just sum of Three Hundred dollars, to be paid to the said The United States of America, its certain attorney, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals and dated this 13th day of March, in the year of our

Lord one thousand nine hundred and twelve.

Whereas, lately at a session of the United States Circuit Court of Appeals, 6th Circuit, in a suit depending in said Court, between Della Bennett, Plaintiff in error, and The United States of America Defendant in error, a judgment was rendered against the said Della Bennett, and the said Della Bennett having obtained a writ of error, and filed a copy thereof in the Clerk's office of the said Court to reverse the judgment in the aforesaid suit, and a citation directed to the said The United States of America, citing and admonishing it to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date thereof.

Now, the condition of the above obligation is such, That if the said Della Bennett shall prosecute her writ to effect and answer all costs if she shall fail to make her plea good, then the above obligation to be void; else to remain in full force and virtue.

DELLA BENNETT. [SEAL.]

MARYLAND CASUALTY CO.

W. H. SARGENT, [SEAL.]

Att'y in Fact.

Sealed and delivered.

MAX LEVY,

AGNES B. GRANT.

Approved by
HORACE H. LURTON,
Associate Justice of the Supreme Court
of the United States.

THE UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

I, B. E. Dilley, Clerk of the District Court of the United States, within and for the District and Division aforesaid, do hereby certify that, in my opinion, the within bond of Della Bennett, with the Maryland Casualty Company, as surety, is sufficient.

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In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at the City of Cincinnati, Ohio, this 13th day of March, A. D., 1912.

[SEAL.]

B. E. DILLEY, Clerk, By HARRY F. RABE, Deputy.

UNITED STATES OF AMERICA, 88:

The President of the United States to the Honorable the Judges of the United States Circuit Court of Appeals for the Sixth Circuit, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court of Appeals, before you, or some of you, between Della Bennett, plaintiff in error, and United States of America, defendant in error, a manifest error hath happened, to the great damage of the said plaintiff in error, as by her complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the 12th day of March, in the year of our Lord

one thousand nine hundred and twelve.

[Seal of the Supreme Court of the United States.],

JAMES H. McKENNEY,

Clerk of the Supreme Court of the United States.

Allowed, to operate as a supersedeas and the plaintiff in error may be admitted to bail, upon filing the citation duly served, by the District Court, upon the execution of a bond in said Court conditioned as required by law in the sum of the bond under which she is now on bail.

HORACE H. LURTON,
Associate Justice of the Supreme
Court of the United States.

[Endorsed:] Filed Mar. 18, 1912. Frank O. Loveland, Clerk.

United States Circuit Court of Appeals for the Sixth Circuit, se:

In pursuance of the command of the within writ of error, I, Frank O. Loveland, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, do hereby transmit under the seal of said Court, a true, full and complete copy of the record and proceedings in said Court in the cause and matter in said writ of error stated; together with all things concerning the same, to the Supreme Court of the United States, together with said writ of error and the citation to said defendant in error.

Witness my official signature and the seal of said Court at Cincin-

nati, Ohio, in said Circuit, this 19th day of March, 1912.

[Seal United States Circuit Court of Appeals, Sixth Circuit.]

FRANK O. LOVELAND,

Clerk United States Circuit Court of

Appeals for the Sixth Circuit.

UNITED STATES OF AMERICA, 88:

To The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the Clerk's Office of the United States Circuit Court of Appeals for the Sixth Circuit, wherein Della Bennett is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

speedy justice should not be done to the parties in that behalf.
Witness, the Honorable Horace H. Lurton, Associate Justice of
the Supreme Court of the United States, this 12th day of March,
in the year of our Lord one thousand nine hundred and tweleve.

HORACE H. LURTON,
Associate Justice of the Supreme
Court of the United States.

March 18" 1912.

I hereby acknowledge service of a true copy of the within cita-

SHERMAN T. McPHERSON, United States Attorney, S. D., O.

United States Circuit Court of Appeals for the Sixth Circuit.

I Frank O. Loveland, Clerk of the United States Circuit Court of Appeals for the Sixth Circuit, do hereby certify that the foregoing is a true and correct copy of record and proceedings in the case of Della Bennett vs. The United States of America, No. 2178, as the

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Appeals for the Sixth Circuit.

same remains upon the files and records of said United States Circuit Court of Appeals for the Sixth Circuit, and of the whole thereof, together with the original writ of error and citation.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of said Court, at the City of Cincinnati, Ohio, this

19th day of March A. D. 1912.

[Seal United States Circuit Court of Appeals, Sixth Circuit.] FRANK O. LOVELAND. Clerk of the United States Circuit Court of

[16833]

112 Supreme Court of the United States, October Term, 1911.

No. 1068.

DELLA BENNETT, Plaintiff in Error, vs.
THE UNITED STATES OF AMERICA.

On petition for writ of Certiorari to the United States Circuit Court of Appeals for the Sixth Circuit.

On consideration of the petition for a writ of certiorari herein to the United States Circuit Court of Appeals for the Sixth Circuit, and of the argument of counsel thereupon had, as well in support of as against the same, it is now here ordered by the Court that the said petition be, and the same is hereby, granted, and that the transcript of record heretofore filed be taken as a return to the writ. May 13, 1912.

Endorsed on cover: File No. 23,144. U. S. Circuit Court Appeals, 6th Circuit. Term No. 603. Della Bennett, Plaintiff in Error, vs. the United States of America. Filed April 1st, 1912. File No. 23,144.

# In the Supreme Court of the United States.

OCTOBER TERM, 1912.

EMMA HARRIS, ALIAS EMMA R. SMITH, AND BESSIE GREEN, PLAINTIFFS IN ERROR,

113.

v.

THE UNITED STATES.

DELLA BENNETT, PLAINTIFF IN ERBOR,

v.

No. 603.

THE UNITED STATES.

ON WRITS OF ERROR AND WRITS OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

#### MOTION TO ADVANCE.

The Solicitor General, on behalf of the United States, moves the court to advance these cases for hearing during the present term with Nos. 381 and 588, in which cases like motions are submitted.

All are criminal cases, arising under the act of Congress approved June 25, 1910, 36 Stat. 825, known as the White Slave Traffic Act, and all involve the constitutionality of that act.

In these cases, Nos. 602 and 603, plaintiffs in error were convicted in the District Court for the Southern

District of Ohio of violating the statute. Harris was sentenced to a term of four years in the penitentiary, Green to a term of one year in the penitentiary, and Bennett to a term of eleven months in jail, and to pay the costs of prosecution.

The trial court overruled motions and demurrers which challenged the constitutionality of the act as not being a regulation of interstate commerce, and therefore not within the power of Congress to enact. Upon appeal to the Circuit Court of Appeals the validity of the statute was sustained. The cases are before this court upon writs of error and also upon writs of certiorari granted at the last term.

Notice of this motion has been given:

WILLIAM MARSHALL BULLITT,
Solicitor General.

WILLIAM R. HARR,
Assistant Attorney General.

OCTOBER 15, 1912.

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Office Supreme Court, U. S. Filliand.

APR 10 1912 JAMES H. McKENNEY,

## SUPREME COURT OF THE UNITED STATES. CLERK.

OCTOBER TERM, 1911.

No. 1007.602

EMMA HARRIS, ALIAS EMMA R. SMITH, ET AL., PLAINTIFFS IN ERROR AND PETITIONERS,

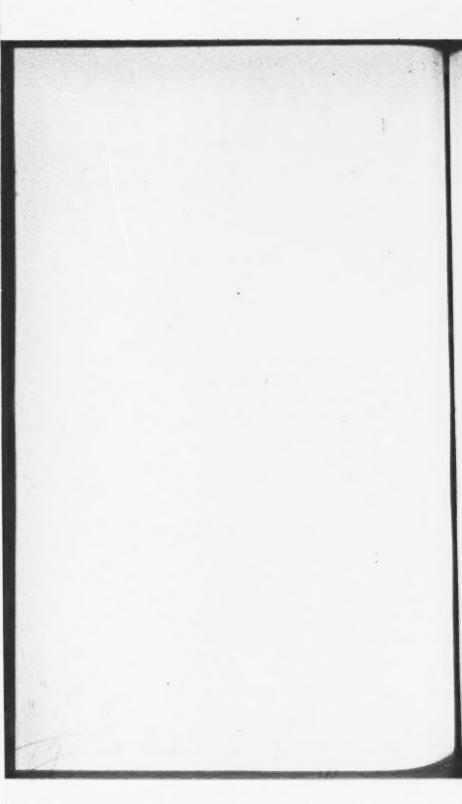
118.

THE UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI.

MAX LEVY, Counsel for Petitioners.

(23,143)



# SUPREME COURT OF THE UNITED STATES. OCTOBER TERM, 1911.

## No. 1067.

EMMA R. SMITH AND BESSIE GREEN, PETITIONERS,

U8.

THE UNITED STATES OF AMERICA,
RESPONDENT.

## PETITION FOR WRIT OF CERTIORARI.

To the Honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Your petitioners, Emma R. Smith and Bessie Green, respectfully represent that on the 9th day of February, 1911, they were indicted in the District Court of the United States within and for the Southern District of Ohio, Western Division, for a violation of section 2 of the act of June 25, 1910, 36th Stat., 825, known as "The White Slave Traffic Act," and also for a violation of section 3

that the said case may be reviewed and determined by this court as provided in section 6 of the act of Congress entitled "An act to establish Circuit Courts of Appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, or that your petitioners may have such other or further relief or remedy in the premises as to this court may seem appropriate and in conformity with the said act, and that the mandate of said Circuit Court of Appeals affirming the judgment of the district court be stayed, and for a stay of proceedings, and that the said judgment of the said Circuit Court of Appeals in the said case, and every part thereof, may be reversed by this honorable court.

And your petitioners will ever pray.

MAX LEVY,

Counsel.

STATE OF OHIO, County of Hamilton, 88:

Max Levy, being duly sworn, says that he is counsel for Emma R. Smith and Bessie Green, the petitioners; that he prepared the foregoing petition, and that the allegations thereof are true as he verily believes.

MAX LEVY.

Subscribed and sworn to before me by Max Levy this the 8th day of March, 1912.

[SEAL.] W. W. SYMMES,

Notary Public, Hamilton County, Ohio.

My commission expires March 27, 1913.

#### "Exhibit A."

and the same

Indictment. No. 798.

THE UNITED STATES OF AMERICA vs.

EMMA HARRIS, ALIAS EMMA R. SMITH, AND BESSIE GREEN.

Be it remembered, that on the ninth day of February, in the year of our Lord one thousand nine hundred and eleven, came the grand jurors of the United States within and for the district and division aforesaid, and presented to the court their certain bill of indictment against the defendants herein, which said bill of indictment is clothed in the words and figures following, to wit:

#### Indictment.

THE UNITED STATES OF AMERICA,
Western Division of the
Southern District of Ohio, ss:

In the District Court of the United States within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the Term of February, in the Year of Our Lord One Thousand Nine Hundred and Eleven.

1st Count—Sec. 2, Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

The grand jurors of the United States of America, duly empaneled, sworn and charged to inquire within and for the western division of said district, upon their oaths and affirmations, present

that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to wit, the eighth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the circuit and western division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for and in transporting in interstate commerce, to wit, from the city of Charleston, in the State of West Virginia, to and into the city of Cincinnati, in the county of Hamilton and State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, two certain women, to wit, Nellie Stover and Stella Larkins, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them: that each of said Nellie Stover and Stella Larkins, would and should in said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2d Count—Sec. 2, Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to wit, the eighth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the

State of Ohio, in the circuit and western division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained, at the city of Charleston, in the State of West Virginia, two certain railroad passenger tickets from the Chesapeake & Ohio Railway Company, then and there a common carrier of passengers, engaged in interstate commerce, each of which said tickets was good for transportation for one person from said city of Charleston, West Virginia, to the city of Cincinnati, in the State of Ohio, upon and over the line and railroad route of the said railway company, with the purpose and intention that said tickets should be used by two certain women, to wit, Nellie Stover and Stella Larkins, in interstate commerce, to wit, in going from said city of Charleston, in the State of West Virginia, to said city of Cincinnati, in said State of Ohio, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to w. Nellie Stover and Stella Larkins, would and should, in said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, whereby, and with the means and by the use of the said tickets, said Nellie Stover and Stella Larkins were then and there and thereupon carried and transported as passengers in interstate commerce, over and upon the railway route and line of said railway company, to wit, from said city of Charleston, in the State of West Virginia, to and into said city of Cincinnati, in the State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

3d Count—Sec. 3, Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to wit, the eighth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the circuit and western division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded, induced, and enticed, two certain women, to wit, Nellie Stover and Stella Larkins, to go from one place, to wit, the city of Charleston, in the State of West Virginia, to another place, to wit, the city of Cincinnati, in the State of Ohio, within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to wit, Nellie Stover and Stella Larkins, would and should in the said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, with the consent of the said Nellie Stover and Stella Larkins; and did then and there and thereby knowingly cause and aid and assist in causing said women, to wit, Nellie Stover and Stella Larkins, to go and be carried and transported in interstate commerce, as passengers upon and over the rail-way route and line of the Chesapeake & Ohio Rail-way Company, a common carrier engaged in interstate commerce, to wit, from the said city of Charleston, in the State of West Virginia, to and into the said city of Cincinnati, in the State of Ohio, for the purpose aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SHERMAN T. McPherson, United States Attorney in and for the Southern District of Ohio.

The following endorsement appears on the back of said indictment: "A true bill. Wm. H. Davis, foreman."

[Endorsed:] File No. 23,143. Supreme Court U. S., October Term, 1911. Term No. 1067. Emma Harris, alias Emma R. Smith, et al., pl'ffs in error, vs. The United States of America. Petition for writ of certioruri. Filed April 10, 1912.

APR 10 1912 JAMES H. MCKENNEY,

## SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1911.

No. 1000.6()3

DELLA BENNETT, PLAINTIFF IN ERROR AND PETITIONER,

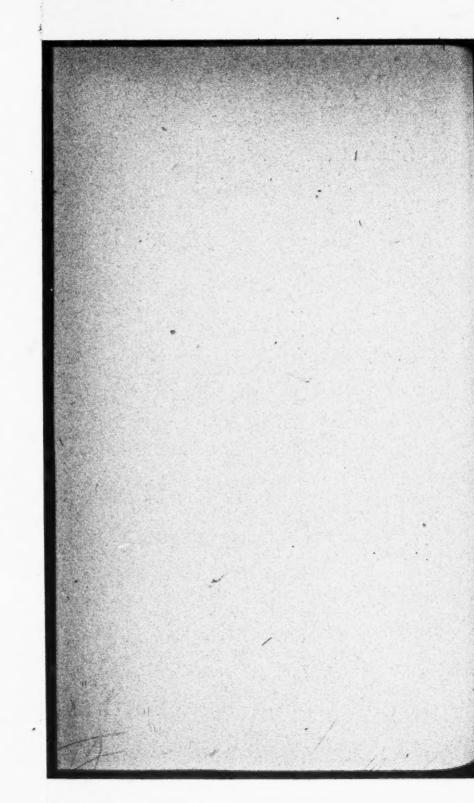
vs.

THE UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI.

MAX LEVY, Counsel for Petitioner.

(23,144)



# SUPREME COURT OF THE UNITED STATES. OCTOBER TERM, 1911.

No. 1068.

DELLA BENNETT, PETITIONER,

U8.

THE UNITED STATES OF AMERICA, RESPONDENT.

## PETITION FOR WRIT OF CERTIORARI.

To the Honorables the Chief Justice and Associate Justices of the Supreme Court of the United States:

Your petitioner, Della Bennett, respectfully represents that on the 9th day of February, 1911, she was indicted in the District Court of the United States within and for the Southern District of Ohio, Western Division, for a violation of section 2 of the act of June 25, 1910, 36 Stat., 825, known as "The White Slave Traffic Act," and also for a violation of section 3 of said act, in that she was charged with transporting, causing to be transported, and persuading, inducing, and en-

ticing, and causing to be persuaded, induced, and enticed, Opal Clark and Eva Parks to come from the city of Chicago, Illinois, to the city of Cincinnati, Ohio, in interstate commerce for the purpose of prostitution, and with the purpose and intention on the part of the petitioner that the said Opal Clark and Eva Parks would and should, in the city of Cincinnati, Ohio, engage in the acts and practice of offering and submitting their bodies to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, a copy of which indictment is hereto attached, marked "Exhibit A," and made part hereof.

That a demurrer was filed to said indictment in which the constitutionality of the statute aforesaid was raised. That said demurrer was overruled by the district court.

That thereupon a plea of "not guilty" was entered by the petitioner, and that upon the trial had the petitioner was convicted and sentenced to eleven months' imprisonment.

The testimony upon the hearing of the case showed that the true and correct name of Opal Clark was Nellie Laplante, and there was a total failure of proof as to the guilt of the petitioner as to Eva Parks.

A motion was made at the conclusion of the testimony for an instructed verdict of acquittal on the ground that the white slave traffic law was unconstitutional, and for the further reason of variance between the allegations and proof as

to the name of the Clark woman, and for failure of proof as to the guilt of petitioner as to Eva Parks, all of which motions were overruled by the trial court.

That thereupon a writ of error was sued out in the Circuit Court of Appeals in and for the Sixth Circuit, and the constitutionality of said act was questioned in the said Circuit Court of Appeals; that on the 5th of March, 1912, the said Circuit Court of Appeals rendered an opinion sustaining the constitutionality of said law and overruling all other questions raised, and affirmed the judgment of the district court.

Your petitioner believes that the aforesaid judgment of the Circuit Court of Appeals is erroneous and that this honorable court should require the said case to be certified to it for review and determination in conformity with the provisions of the act of Congress in such cases made and provided.

Wherefore your petitioner respectfully prays that a writ of certiorari may be issued out of and under the seal of this court, directed to the United States Circuit Court of Appeals for the Sixth Circuit, commanding the said court to certify and send to this court, on a day certain to be therein designated, a full and complete transcript of the record and all proceedings of the said Circuit Court of Appeals in the said case therein, entitled Della Bennett, plaintiff in error, vs. The United States of America, defendant in error, No. 2178,

to the end that the said case may be reviewed and determined by this court as provided in section 6 of the act of Congress entitled "An act to establish Circuit Courts of Appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, or that your petitioner may have such other or further relief or remedy in the premises as to this court may seem appropriate and in conformity with the said act, and that the mandate of said circuit court be stayed, and for a stay of proceedings, and that the said judgment of the said Circuit Court of Appeals in the said case, and every part thereof, may be reversed by this honorable court.

And your petitioner will ever pray.

MAX LEVY, Counsel.

STATE OF OHIO,

County of Hamilton, ss:

Max Levy, being duly sworn, says that he is counsel for Della Bennett, the petitioner; that he prepared the foregoing petition; and that the allegations thereof are true as he verily believes.

MAX LEVY.

Subscribed and sworn to before me by Max Levy this the 8th day of March, 1912.

My commission expires March 27, 1913.

[Notarial Seal, Hamilton County, Ohio.]

W. W. SYMMES, Notary Public, Hamilton County, Ohio.

#### "Exhibit A."

Criminal. No. 797.

THE UNITED STATES OF AMERICA

vs.

Della Bennett.

#### Indictment.

Be it remembered that on the 9th day of February, in the year of our Lord one thousand nine hundred and eleven, came the grand jurors of the United States of America, duly empaneled within and for the district and division aforesaid, and presented their certain bill of indictment, which said bill of indictment is clothed in the words and figures following, to wit:

THE UNITED STATES OF AMERICA,
Western Division of the Southern
District of Ohio, ss:

In the District Court of the United States within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the Term of February, in the Year of Our Lord one thousand nine hundred and eleven.

1st Count—Section 2, Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

The Grand Jurors of the United States of America, duly empaneled, sworn, and charged to inquire within and for the western division of said district, upon their oaths and affirmations, present Della Bennett, on or about, to wit, the

twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for, and in transporting in interstate commerce, to wit, from the city of Chicago, in the State of Illinois, to and into the city of Cincinnati. in the county of Hamilton and State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, two certain women, to wit, Opal Clark and Eva Parks, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Della Bennett that said Opal Clark and Eva Parks, and each of them, would and should in the said city of Cincinnati, State of Ohio, gage in acts and practice of offering and submitting her body to common, illicit and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2d Count.—Section 2, Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Della Bennett, on or about, to wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and ob-

tain, and cause to be procured and obtained, at the city of Chicago, in the State of Illinois, two certain railroad passenger tickets from the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, then and there a common carrier of passengers, engaged in interstate commerce; each of which said tickets was then and there good for transportation for one person from said city of Chicago, in the State of Illinois, to the city of Cincinnati, in the State of Ohio, upon and over the line and railroad route of said railway company: with the purpose and intention that said tickets should be used by two certain women, to wit, Opal Clark and Eva Parks, in interstate commerce, to wit, in going from said city of 'Chicago, in the State of Illinois, to said city of Cincinnati, in said State of Ohio, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Della Bennett that each of said women, to wit, Opal Clark and Eva Parks, would and should, in said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain; whereby and with the means and by the use of said tickets said Opal Clark and said Eva Parks were then and there and thereupon carried and transported as passengers in interstate commerce, over and upon the railway route and line of said railway company, to wit, from said city of Chicago, in the State of Illinois, to and into said city of Cincinnati, in the State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against 'the peace and dignity of the United States of America.

3d Count.—Section 3, Act of June 25, 1910, 36 Stat., 825, "White-Slave Traffic Act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further 'present that Della Bennett, on or about, to wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded, induced, and enticed, two certain women, to wit, Opal Clark and Eva Parks, to go from one place, to wit, the city of Chicago, in the State of Illinois, to another place, to wit, the city of Cincinnati, in the State of Ohio, within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Della Bennett, that each of said women, to wit, Opal Clark and Eva Parks, would and should in the said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, with the consent of said Opal Clark and Eva Parks; and did then and there and thereby knowingly cause and aid and assist in causing said women, to wit, Opal Clark and Eva Parks, to go and be carried and transported in interstate commerce, as passengers, upon and over the railway route and line of the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, a common carrier engaged in interstate commerce, to wit, from the said city of Chicago, in the State of Illinois, to and into the said

city of Cincinnati, in the State of Ohio, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SHERMAN T. McPherson, United States Attorney, S. D. O.

The following endorsement appears on the back of said indictment:

A true bill.

WM. H. DAVIS, Foreman.

[Endorsed:] File No. 23,144. Supreme Court U. S. October term, 1911. Term No. 1068. Della Bennett, pl'ff in error, vs. The United States of America. Petition for writ of certiorari. Filed April 10, 1912.

[16834]

# Supreme Court of the United States

Emma R. Smith and Bessie Green, Petitioners,

VS.

The United States of America,
Respondent.

Della Bennett,

Petitioner,

V8

The United States of America,
Respondent.

### BRIEF ON BEHALF OF PETITIONERS.

A petition has been filed in each of the above entitled causes for a writ of certiorari, and the two cases are briefed together, as the same question is involved in both cases, to wit—the constitutionality of the White Slave Traffic Act:

Counsel respectfully submits to the Court that the Statute, which the petitioners are charged with violating, is unconstitutional.

That said Act was passed by Congress in pursuance of Paragraph 3, of Section 8, of the Constitution of the United States, which provides that Congress shall have power "to regulate Commerce with foreign nations and among the several States, and with the Indian tribes."

We respectfully submit that "PERSONS ARE NOT SUBJECTS OF COMMERCE." The true test as to whether an article or thing is a proper subject of Commerce and can be considered as a commercial article is whether the said article or thing is merchantable."

New York v. Miln, 11 Peters, 102, Syl. 12. Bowman v. Chicago & C. Railway Co., 125 U. S., 489.

License Cases, 5 How., p. 599.

It will be noted that the indictment in the cases, charged petitioners with having transported, etc., the women mentioned in the indictments for the purpose that the women shall commit acts of prostitution in the City of Cincinnati, Ohio.

Congress has no power or authority to punish

crimes of prostitution.

Congress has no authority to legislate or to make a criminal act anything which may be done in a sovereign state by any person.

The only power Congress has over any person is

while such person is "in transitu."

Lemon v. The People, 26 Barb., (N. Y.) 270. Syl. 3, 4 and 5.

Affirmed, 20 New York, 562.

## CONGRESS HAS NOT PROHIBITED PROSTITUTES FROM TRAVELING.

There is no question but what Congress has the right to enact any criminal statute which may be necessary and proper for carrying into execution the power specially granted under Section 8, Article 1, of the Constitution.

Congress has under the Commerce clause of the Constitution power to regulate commerce and perhaps forbid commerce in any commodity or to forbid any particular form of commerce, and when it has exercised that power of regulation, then, and not until then, the power to enact a criminal statute as a convenient means of carrying into execution the power to forbid under the Commerce clause arises.

To make it plain, Congress has not enacted by any statute that it shall be unlawful for any woman or girl to travel from one state to another for any purpose whatever. Until Congress has so legislated, then the incidental power to create a criminal statute as a convenient method of enforcing a law already enacted, does not arise.

In the liquor cases, the slaughter-house cases and a long line of decisions it has been declared "That the power vested in Congress to regulate commerce among the several states is to prescribe the rule by which that commerce is to be governed"—that it must be governed by uniform system and so long as Congress does not by any law regulate it, it indicates its will that such commerce shall be free and untrammelled.

This doctrine is laid down in the case of Welton v. State of Misseuri, 91 U.S., p. 275. Syllabus 4, of said case, reads as follows:

The non-exercise by Congress of its power to regulate commerce among the several states is equivalent to a declaration by that body that such commerce shall be free from restrictions.

In the case of Hall v. DeCuir, 95 U. S., 485, the Supreme Court in its opinion on page 490, says:

The power of regulation may be exercised without legislation as well as with it. By refraining from action, Congress, in effect, adopts as its own regulations those which the Common law or the Civil law, where that prevails, has provided for the government of such business, and those which the states in the regulation of their domestic concerns, have established affecting commerce, but not regulating it within the meaning of the Constitution. In fact, Congressional legislation is only necessary to cure defects in existing laws, as they are discovered and to adopt such laws to new developments of trade.

As was said by Mr. Justice Field, speaking for the court, in Welton v. State of Missouri, 91 U. S., 282, "inaction (by Congress) \* \* is equivalent to a declaration that interstate commerce shall remain free and untrammelled."

And in the case of Weber v. Virginia, 103 U. S., p. 344, Justice Field rendering the opinion of the court, says on page 351 (speaking of the non-action of Congress in regulating commerce)—

Its non-action in such cases, with respect to any particular commodity or mode of transportation, is a declaration of its purpose that the commerce in that commodity or by that means of transportation shall be free.

In the case of Smith v. Alabama, 124 U. S., 465, Mr. Justice Matthews in the opinion on page 473, says:

As the regulation of commerce may consist in abstaining from prescribing positive rules for its conduct, it can not always be said that the power to regulate is dormant because not affirmatively exercised. And when it is manifest that Congress intends to leave that commerce, which is subject to its jurisdiction, free and unfettered by any positive regulations, such intention would be contravened by state laws operating as regulations of commerce as much as though these had been expressly forbidden.

Now then, Congress having passed no act making it unlawful for women to travel from state to state for any purpose, it is equivalent to the declaration of Congress that such travel by such person shall be free and untrammelled.

If then the travel from state to state by women must be considered to be declared by Congress as "free and untrammelled," how then may Congress enact a criminal statute, making it a crime for any person to incidentally assist such travel by such women. Is it not making the person who assists an accessory, not to a crime, but to an act that Congress has declared to be lawful?

The right of Congress to enact a criminal statute can only be an auxiliary method of enforcing some legislation under its express power. If it had not exercised the express power, the auxiliary power fails for something to stand upon, and this is illustrated in the case of the United States v. DeWitt, 76th U. S., (9 Wallace), page 41, in which case a statute making it a misdemeanor, punishable by fine and imprisonment,

to mix for sale naptha and illuminating oils, etc. An indictment in this case went to the Supreme Court on a division of opinion. It was held that under the Internal Revenue taxing power that the Government might have made a statute regulating the mixing of these commodities as a measure plainly adapted to secure the collection of a tax imposed, but as Congress had not exercised its taxing power, its incidental regulating power did not exist.

In these cases, as will be seen, Congress has not passed a law prohibiting women from traveling for any purpose, and I submit therefore that it can not be a crime to aid such women in traveing from place

to place.

Congress has not exercised its power to direct that no woman or girl shall travel from place to place for any purpose whatever, moral or immeral, but, on the contrary, by its failure to so legislate, by its very negative act had declared that right to exist.

While that right exists, a criminal statute of the character discussed, which of necessity must be auxiliary to some other, must be void if the other statute to-wit, the regulatory statute, does not exist.

I therefore submit for the consideration of the court the following:

First. Congress has not forbidden women to travel from state to state for an improper purpose.

Second. Under the decisions, the Commerce power of Congress is a dormant power until brought into action.

Third. The failure of Congress to regulate or forbid a certain class of commerce is equivalent to a declaration of Congress that that commerce shall be free and untrammelled.

Fourth. It can not be a crime to assist commerce which Congress by its inaction has declared shall exist free and untrammelled, because it has no power to pass a criminal statute, except to enforce the provisions of a regulating statute, which, in these cases, has not been enacted.

# WHITE SLAVERY STATUTE DISTINGUISHED FROM LOTTERY CASE.

The Circuit Court of Appeals, as well as the District Court, seems to be under the mistaken opinion that if Congress could prohibit interstate carriers from carrying lottery tickets, it also could prohibit the carrying of prostitutes.

It has been held time and again by this Court, thatfor any commodity or article to come under the protection of interstate Commerce, it must be either merchantable, or have some money value. And, in the famous Lottery cases decided in 188 U. S., 321, Justice Harlan expressly says that lottery tickets are articles of value, and Syllabus 1 in said case, reads as follows:

Lottery tickets are subject of contract among those who choose to buy and sell them, and their carriage by independent carriers from one state to another is therefore interstate Commerce, which Congress may prohibit under its power to regulate Commerce among the several states. A prostitute is not an article of value in the sense that she can be bought and sold, or that she is a commodity. She is a person, and an examination of the authorities will show that wherever Congress attempted to prohibit, or did prohibit, the importation of any article or commodity, that in no case of such attempted prohibition \* \* persons were prohibited from traveling from place to place, or be transported from place to place, and the only right that Congress has, under the enumerated powers of the Constitution, of prohibiting transportation of persons, are in cases of immigration, as the subject of immigration comes under the power of Congress to regulate commerce with foreign countries.

It is said, however, that Congress has a right to regulate interstate commerce \* \* \* method of doing business, etc. \* \* \* That is true. Congress may provide certain laws regulating the transportation of merchandise and passengers; the kind of cars to be used \* \* \* the safety appliances on the cars or locomotives; may provide rules to regulate the hours of labor for the employes, etc.; but upon what theory can it be urged that Congress in its enumerated powers shall or can say that people by reason of their occupation, race or color, shall or shall not travel or be transported in interstate carriers.

Justice McLean in the Passenger cases, 7 How., 283, in his decision on page 405, uses the following language:

If the transportation of passengers be a branch of commerce, of which there can be no

doubt, it follows that the act of New York in imposing this tax is a regulation of commerce. It is a tax upon commercial operation-upon what may, in effect, be called an import. In a commercial sense no just distinction can be made, as regards the law in question, between the transportation of merchandise and passengers. For the transportation of both, the ship owner realizes the profit, and which is the subject of commercial regulation by Congress. When the merchandise is taken from the ship, and becomes mingled with the property of the people of a state, like other property, it is subject to local laws; but until this shall take place, the merchandise is an import, and is not subject to the taxing power of a state, and the same rule applies to passengers, when they leave the ship, and mingle with the citizens of a state, they become subject to its laws.

In the case of King et al v. American Transporttion Co., 14 Fed. Cases, 512, Syllabus 8, reads as follows:

(8) Congress has power to legislate over navigation, as well as trade \* \* \* over intercourse, as well as traffic \* \* \* as to what shall constitute American vessels and the national character of the same, who shall navigate them, and may prescribe rules and regulations for the intercourse and navigation of such vessels between the different states, but this constitutional grant of power "to regulate commerce with foreign nations and among the several states," does not confer upon Congress the authority to extend its legislation and authority

over the entire sphere of legislation of the sev-

So we see in this case that Congress has a right to prescribe the rules as to who shall operate trains, the rates to be charged, etc., but it has no power to say what class of people shall not be carried on said trains, unless they be convicted malefactors of the law, under restraint, or undesirable aliens so declared by law.

- (9) Each state has exclusive control of all matters appertaining to its own internal police. It can establish and regulate ferries; control the moving of vessels in its harbors, and enact health and inspection laws. It has the same unlimited jurisdiction over all persons and things within its limits as foreign nations, where that jurisdiction is not surrendered or restrained by the Constitution of the United States.
- (10) Courts have never gone so far in their interpretation of this constitutional power of Congress, as to declare that it is operative upon persons and things upon land within the boundaries of state jurisdiction. It has never been controverted that the rights and duties of persons in relation to property are rightfully prescribed and controlled by the laws of the state within whose limits it is found.

In the case of Boyce v. Anderson, 2nd Peters, 150, in which case the question arose as to the responsibility of common carriers who carried slaves, as to whether the slaves resembled passengers or merchandise, Chief Justice Marchall says:

A slave has volition, and has feelings which can not be entirely disregarded. These properties can not be overlooked in conveying him from place to place. He can not be stowed away as a common package. Not only does humanity forbid this proceeding, but it might endanger his life or health. Consequently, this rigorous mode of proceeding can not be safely adopted unless stipulated for by special contract. Being left at liberty, he may escape. The carrier has not, and can not have, the same absolute control over him that he has over inanimate matter. In the nature of things, and in his character, he resembles a passenger, not a package of goods. It would seem reasonable, therefore, that the responsibility of the carrier should be measured by the law which is applicable to passengers, rather than by that which is applicable to the carriage of common goods.

The above authorities are submitted to the Court as a brief, showing that the White Slave Law is unconstitutional, infringes on the police power of the States, and that this Court should pass upon its validity.

Respectfully submitted,

MAX LEVY,

Counsel for Petitioners.

## In the Supreme Court of the United States.

OCTOBER TERM, 1911.

Emma Harris, alias Emma R. Smith, and Bessie Green, petitioners, v.

THE UNITED STATES.

DELLA BENNETT, PETITIONER,

THE UNITED STATES.

No. 1068.

PETITIONS FOR WRIT OF CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

# BRIEF FOR THE UNITED STATES IN OPPOSITION. STATEMENT.

These cases are now before this court upon writs of error. Counsel for petitioners having been notified that the United States would present a motion to dismiss the writs of error on April 29th, served notice that applications would be made for a writ of certiorari on the same day.

The sole ground urged in support of the petitions is the alleged unconstitutionality of the act of Congress approved June 25, 1910, known as the

White-Slave Traffic Act (36 Stat., 825). Sections 2 and 3 of that act, under which the indictments were found, provide:

SEC. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery. or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court.

Sec. 3. That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing, or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or by both such fine and imprisonment, in the discretion of the court.

The validity of the act is attacked on the ground that "persons are not subjects of commerce," and also upon the theory that, as Congress has not prohibited prostitutes from traveling from one State to another, it can not regulate or prohibit the transportation of such persons in interstate or foreign commerce.

It is submitted that the propositions presented by petitioners are concluded by the decisions of this court. In disposing of these contentions below, the Circuit Court of Appeals in the Bennett case said:

It can not now be doubted that transportation, of persons as well as of property, is commerce, and that Congress may regulate the interstate transportation of persons. (Gloucester Ferry Co. v. Pennsylvania, 114 U. S., 196, 203; Covington Bridge Co. v. Kentucky, 154 U. S., 204, 217; see also the cases involving passenger traffic under the interstate commerce acts.)

It is also settled that the constitutional power to regulate includes the power to prohibit, in cases where such prohibition is in aid of the lawful protection of the public. (The

Lottery Case, 188 U.S., 321, 354.)

We think it a mistake to assume that this statute does not prohibit, and so impliedly permits, the primary act and yet punishes as a crime a merely incidental wrong. The act does not undertake to prohibit the woman from traveling from one State to another of her own volition, and in the supposed exercise of her inherent personal rights, no matter what her purpose as to her future conduct may be. This conclusion is emphasized by observing

that the woman traveling may be perfectly innocent of any intended immorality, and that the act can not be intended to interfere with liberty of travel by such person. The primary thing forbidden is the inducing of a person to come into the State, with unlawful purpose by the inducer and in aid of such unlawful purpose, but without direct regard to the innate character or purpose of the person induced. It is this primary thing and the incidental transportation by the carrier which are forbidden and penalized.

Petitioners fail to distinguish between travel and transportation. The transportation of a person from one State to another is interstate commerce, but the traveler, although the subject of such commerce, is not himself engaged in it, and therefore is not subject to regulation by Congress on that ground.

There is no conflict of decision on this subject. On the contrary, the act has been upheld in every case in which its constitutionality has been attacked. (See *United States* v. *Westman*, 182 Fed., 1017, District Court, District of Oregon; *United States* v. *Hoke*, 187 Fed., 992, District Court, Eastern District of Texas; *United States* v. *Warner*, 188 Fed., 682, Circuit Court, Southern District of New York.)

The fact that these cases might have been brought here direct from the District Court, and that a writ of error will not lie from this court to the Circuit Court of Appeals, is not a sufficient reason for issuing a writ of certiorari therein. Having elected to go to the Circuit Court of Appeals, they should abide by their choice of remedies. Besides, in view of the lottery and passenger cases, above cited, there is not sufficient merit in the contention as to the unconstitutionality of the White-Slave Traffic Act to warrant an appeal direct from the District Court upon that ground. (Farrell v. O'Brien, 199 U. S., 100; David Kaufman & Sons Company v. Smith, 216 U. S., 610.)

The petitions for the writ of certiorari should therefore be denied.

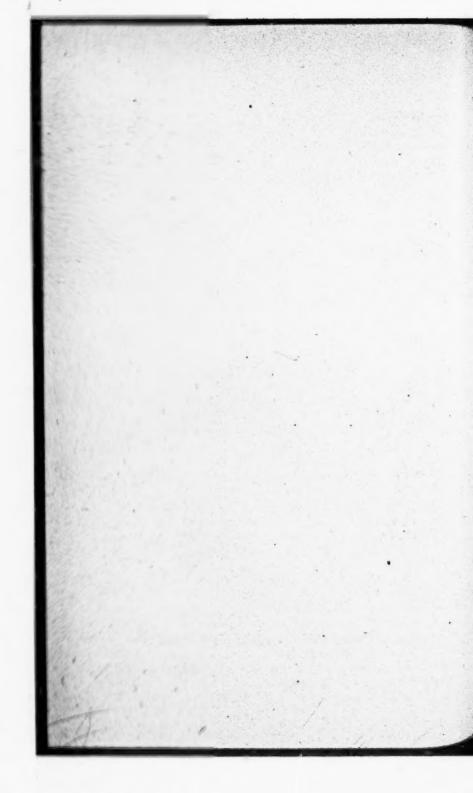
Respectfully submitted.

WILLIAM R. HARR, Assistant Attorney General.

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## Supreme Court of the United States

No. 23,143. October Term, 1912

EMMA HARRIS, alias Emma R. Smith, and BESSIE GREEN.

Plaintiffs in Error and Petitioners,

No. 602.

vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

#### No. 23,144. October Term, 1912

DELLA BENNETT,
Plaintiff in Error and Petitioner,

No. 603.

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

### BRIEF AND ARGUMENT OF THE PLAIN-TIFFS IN ERROR AND PETITIONERS.

By their Counsel, Mr. Max Levy.

#### STATEMENT OF THE CASE.

The plaintiffs in error and petitioners were indicted and convicted in the United States District Court for the Southern District of Ohio, Western Division, for a violation of Sections 2 and 3 of the Act of June 25th, 1910, 36th Stat., 825, known as "The White Slave Traffic Act."

As the principal question involved in these cases is the constitutionality of the so-called White Slave Act, and the errors alleged to have occurred in the trial court are practically the same, both of these cases will be briefed, argued and submitted together.

The provisions of the Statute alleged to have been violated by the plaintiffs in error and petition-

ers are as follows:

"Sec. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining any ticket or tickets, or any form of transportation or evidence of the right thereto. to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both, such fine and imprisonment, in the discretion of the court.

That any person who shall knowingly persuade, induce, entice, or coerce, or cause to be persuaded, induced, enticed, or coerced, or aid or assist in persuading, inducing, enticing or coercing any woman or girl to go from one place to another in interstate or foreign commerce, or in any Territory or the District of Columbia, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and who shall thereby knowingly cause or aid or assist in causing such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia, shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than five thousand dollars, or by imprisonment for a term not exceeding five years, or both at the discretion of the court."

#### WHITE SLAVE STATUTE ANALYZED.

A careful analysis of the Statute in question developes that the said Act provides for the punishment of

. 1st. Persons "who shall knowingly transport;" 2nd. "Or cause to be transported;"

3rd. "Or aid or assist in obtaining transporta-

tion for;"

4th. "Or in transporting, in interstate or foreign commerce, or in any territory, or in the District of Columbia, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose."

#### Further-

(1) "Or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute, or to give herself up to debauchery, or to engage in any other immoral practice." \* \* \*

#### Further-

(1) "Or shall knowingly procure or obtain, or cause to be procured or obtained, or aid, or assist, or procure in obtaining any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any territory, or District of Columbia, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose. "

#### Further-

"Or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in any territory or the District of Columbia." \* \*

### CONSTITUTIONALITY OF THE ACT RAISED

The plaintiffs in error and petitioners attacked the constitutionality and legality of the Statute in question, by Motions to Quash, Demurrer and Motions in Arrest of Judgment, as per the first, second and twenty-fourth Assignment of Errors in the United State Circuit Court of Appeals, Sixth Circuit, in the case of Emma Harris et al, v. The United States; and as per the first, second and seventh Assignment of Errors in the above entitled case No. 602 in this Court. And in the case of Della Bennett v. The United States in the first, second and forty-second Assignment of Errors in the United States Circuit Court of Appeals, Sixth Circuit, and in the first, second and tenth Assignment of Errors in this Court No. 603.

Inasmuch as the aforementioned Assignment of Errors all raise the same question, to-wit, the Constitutionality of the so-called White Slave Statute, they will be treated as one and briefed and argued together. The Motions to Quash, Demurrers and Motions in Arrest of Judgment which were overruled in the courts below and exceptions taken, as appears by the record, are covered in the aforementioned assignment of errors.

## ARGUMENT BY MR. MAX LEVY UNDER THE PROPOSITIONS RAISED ABOVE.

#### INTERSTATE COMMERCE REGULATION.

The only authority that Congress could have to enact the statute in question can be found in paragraph 3 of Section VIII of the Constitution of the United States, which provides that Congress shall have power "to regulate Commerce with foreign nations and among the several states, and with the Indian Tribes." \*

#### UNIQUE FEATURES OF THE LAW.

A careful analysis of the Statute in question develops—First, that it is not a crime for a common

carrier to carry a person from place to place for the purpose of prostitution, or for any other purpose.

Second. The person traveling, or being carried, cannot be punished for traveling on the common carrier, notwithstanding the fact that she may be traveling voluntarily for the purpose of prostitution.

Third. It is only the person who purchases the ticket etc., or in any way advises a woman or girl to travel interstate who is punished. In other words, the accessory is punished, and not the principal.

### INTERSTATE COMMERCE—WHAT CONSTI-TUTES. CANNOT INFRINGE UPON THE POLICE POWERS OF THE STATE.

That persons are not subjects of commerce, was decided in the early case of New York v. Miln, 11 Peters, 102; Syllabus 12 of which case reads as follows:

"Persons are not subjects of commerce; and not being imported goods, they do not fall within the reasoning founded upon the construction of a power given to Congress to regulate commerce, and the prohibition of the states from imposing a duty on imported goods."

No one will contend that persons are the subjects of commerce. No one will contend that prostitutes are subjects of commerce. The true test as to whether an article or thing is a proper subject of commerce and can be considered as a commercial article is whether the said article or thing is merchantable.

Such was the ruling of the court in the case of Bowman v. Chicago & C. Ry. Co., 125 U. S. 489, and

the court in its opinion in said case, says:

"Doubtless the states have power to provide by law suitable measures to prevent the introduction into the states of articles of trade. which, on account of their existing condition, would bring in and spread disease, pestilence and death, such as rags or other substances infected with the germs of yellow fever or the virus of smallpox, or cattle or meat or other provisions that are diseased or decayed, or otherwise from their condition and quality. unfit for human use or consumption. Such articles are not merchantable. They are not legitimate subjects of trade and commerce. They may be rightly outlawed as intrinsically and directly the immediate sources and causes of destruction to human life and health. The self protecting power of each state, therefore, may be rightfully exerted against their introduction, and such exercises of power can not be considered regulations of commerce prohibited by the Constitution.'

While it is true that the Supreme Court of the United States has held repeatedly, notably in question concerning the sale of goods coming in original paskages carried by common carriers, such as whiskies and liquors, which were carried into prohibition states, that so long as the goods remained in the original packages, they were subject to interstate commerce regulations, and the states could not interfere, but the moment the original package was broken, and the goods were attempted to be sold retail or piecemeal from the original package, then the laws of the various states were supreme, and persons dealing with those articles could be punished, because the articles had lost the protection of interstate commerce legislation the minute the original package was broken

The person prohibited to be carried, under the act under consideration, in the first place is an outlaw. By that I mean to say, her business is not subject to the protection of the laws, and no act can be passed by either Legislature or Congress legalizing her vocation. She travels interstate from different states in the same manner and in the same condition in which she was when she first stepped into the common carrier in the state from which she was transported. She is not merchantable—she is not a commodity-and true it is that such persons are a menace in many cases to human life and health, and, therefore, under the authority laid down in 125th United States, Bowman v. Chicago & C. Ry. Co., 489, the states, and only the states, can rightfully exert their authority against the introduction of such classes of people, and Congress cannot interfere.

And, speaking on the same subject, to-wit, of the police powers as reserved to the states, and its relation to the power granted to Congress over commerce, Mr. Justice Catron in the License cases, 5

How., p. 599, says:

"The assumption is, that the police power was not touched by the Constitution, but left to the states as the Constitution found it. This is admitted; but whenever a thing, from character or condition, is of a description to be regulated by that power in a state, then the regulation may be made by the state, and Congress can not interfere. But this must always depend upon the facts, subject to legal ascertainment, so that the injured may have redress. And the fact must find its support in this, whether the prohibited article belongs to, and is subject to be regulated as a part of, foreign commerce, or of commerce among the states.

If from its nature, it does not belong to commerce, or if its condition, from putresence or other cause, is such, when it is about to enter the state that it no longer belongs to commerce, it, in other words, is not a commercial article, then the state power may exclude its introduction. And as an incident to this power, a state may use means to ascertain the fact. And here is the limit between the sovereign power of the state and the federal power. That is to say, that which does not belong to commerce is within the jurisdiction of the police power of the state, and that which does belong to commerce is within the jurisdiction of the United States.

Let us consider just what the decision, just quoted, means. The woman or girl transported is not a commercial article. She has no legal value, so far as merchandise is concerned. She can not be considered as merchandise, and therefore the laws of interstate commerce can not be so exercised as to say that a prostitute is a commercial article, and that common carriers shall not carry her upon the route, or that no person shall assist her in coming over such a route.

And quoting again the burning words of Mr. Justice Catron \* \* "That which does not belong to commerce is within the jurisdiction of the police power of the state; and that which does belong to commerce is within the jurisdiction of the United States."

In the famous case of New York v. Miln, 11 Peters, 102, Syllabus 8 reads as follows:

"(8) A state has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits, as any foreign nation; when the jurisdiction is not surrendered or restrained by the Constitution of the United States."

Syl. (10) "All those powers which relate to merely municipal legislation, or which may more properly be called internal police; are not surrendered or restrained, and consequently, in relation to these the authority of a state is complete, unqualified and exclusive."

The court in its opinion on page 153b uses the following language:

"If there is any one case to which the following remark of this court is peculiarly applicable, it is this: 'It does not appear to be a violent construction of the Constitution, and it is certainly a convenient one, to consider the power of the states as existing over such cases as the laws of the Union may not reach.' 4 Wheat., 195.

"Let this case be tested by this rule, and let it be shown, that any clause in the Constitution empowers Congress to pass a law which reach the subject of pauperism, or the case of a pauper imported from a foreign nation or another state. They are not articles of merchandise or traffic, imports or exports. Congress can not compel the states to receive and maintain them, nor establish a system of poor laws for their benefit or support; and there can be found in no decision of this court any color for the proposition, that they are in any respect placed under the regulation of the laws of the Union, or that the states have any plenary power over them."

Let us see what the law under consideration means. Persons are prohibited from aiding or assisting any girl or woman to go from one state to

another, for the purpose of prostitution.

Where will the criminal act be consummated, and when does the crime start? Truly not while the person who is being transported is on the common carriers, but the crime starts when such person lands upon the soil of a sister state and enters into the prohibited occupation. In what possible way can any one urge that the laws of the United States can reach such person? She is violating no law of the Union, but the law that such female is violating comes under the police power of the state over which the states have exclusive jurisdiction and control. The Government of the United States loses jurisdiction over such person, if they have any legal jurisdiction at all, the minute a person leaves the common carrier, and then the police powers of the state apply. As was said in the famous case of New York v. Miln, 11 Peters, 102, on page 148:

"After that, when they have ceased (meaning passengers) to have any connection with the ship, and when, therefore, they have ceased to be passengers, we are satisfied that acts of Congress, applying to them as such, and one professing to legislate in relation to them as such, have then performed their office, and can, with no propriety of language, be said to come into conflict with the law of a state, whose operation only begins when that of the laws of Congress ends; whose operation is not even on the same subject, because although the person on whom it operates is the same, yet having ceased to be a passenger, he no longer stands in the only relation in which the laws of Congress either professed or intended to act upon him."

Speaking further on the same subject, the court says:

\* \* "Can anything fall more directly within the police power and internal regulation of a state, than that which concerns the care and management of paupers or convicts, or any other class or description of persons that may be thrown into the country, and likely to endanger its safety, or become chargeable for their maintenance? \*

In this connection, it is well to recall the resolution passed in one of the early Congresses, passed on September 16, 1788, and which is found in Volume 13, Journal of Congress, 142. This resolution is spoken of in the case of New York v. Miln, Ibid, 148. Said resolution is as follows:

"Resolved, that it be and it is hereby recommended to the several states, to pass proper laws for preventing the transportation of convicted malefactors from foreign countries into the United States.

Although this resolution is confined to a certain description of persons, the principle involved in it must embrace every description which may be thought to endanger the safety and security of the country. But the more important bearing which the resolution has upon the question now before this court, relates to the source of the power which is to interpose this protection. It was passed, after the adoption of the Constitution by the Convention, which was on the 17th day of September, 1787. It was moved by Mr. Baldwin, and seconded by Mr. Williamson, both distinguished members of the Convention which framed the Constitution, and is a strong contemporaneous ex-

pression, not only of their opinion, but that of Congress, that this was a power resting within the states; and not only not relinquished by the states, or embraced in any powers granted to the general government, but still remains exclusively in the states." \*

Again the court in speaking upon the subject, says:

"On the same principle by which a state may prevent the introduction of infected persons or goods, and articles dangerous to the persons or property of its citizens, it may exclude paupers who will add to the burdens of taxation, or convicts who will corrupt the morals of the people, threatening them with more evils than gunpowder or disease. The whole subject is necessarily connected with internal police of a state, no item of which has been excepted from the prohibition of the states, and is, of course, included among their reserved powers."

Let us observe that the class of persons, mentioned in the law under consideration, are of the class "who will add to the burdens of taxation, and who will corrupt the morals of the people," and as is said by the court in the previous paragraph, that the whole subject in dealing with persons of the character under consideration is one that is necessarily connected with internal police of the state, and is one which is included in the reserved powers of the state and belongs exclusively to the states.

How can it be maintained, or how can any one successfully contend that the prohibition of prostitution is a part and parcel of the power of regulating trade between the states? And the court, in the case

of New York v. Miln, on page 153d, in speaking of the power of Congress to regulate trade, uses the following language:

"If the power of regulating trade had not been given to the general government, each state would have yet had the power of regulating trade within its territory (3 Wheat., 386, 389), and this power yet adheres to it, subject to the grant, the only question then is, to what trade or commerce that grant extends. This court has held, that it does not extend to the internal commerce of a state, to its system of police, to the subjects of inspection, quarantine, health, roads, ferries, etc., which is a direct negation of any power in Congress. They have also held that 'consequently they remain subject to state legislation,' which is a direct affirmation that those subects are within the powers reserved, and not those granted or prohibited.

\* There is no warrant in the Constitution to authorize Congress to encroach upon the reserved rights of the states by the assumption that it is necessary and proper for carrying their enumerated powers into execution, or to authorize a state, under color of their reserved powers, or the power of executing its inspection or police regulations, to touch upon the powers granted to Congress or prohibited to the states. Implied or constructive powers of either description, are as wholly unknown to the Constitution, as they are utterly with its

spirit and provisions." \*

And in the same case, the court speaking on page 153k, says:

\* \* "A power reserved or excepted in general terms, as internal police, is reserved as

much in detail and in all its ramifications, as the granted power to regulate commerce with foreign nations; the parts or subdivisions of the one can not be carried into the other, by any assumed necessity of carrying the given power in one case into execution, which could not be done in the other."

Under power to regulate commerce, Congress has no power to declare the status which any person shall sustain while in a state.'

Amer. & Eng. Ency. of Law, 2d Ed. Vol 17, page

52.

In the case of Lemmon v. The People, 26 Barb. (N. Y.), 270, affirmed 20 N. Y., 562, Syllabus 3 reads as follows:

- (3) "The clause of the Constitution of the United States giving to Congress power to regulate commerce with foreign nations and among the several states, and with the Indian tribes, confers no power on Congress to declare the status which any person shall sustain while in any state of the Union."
- (4) This power belonged, originally, to each state, by virtue of its sovereign and independent character, and has never been surrendered. It is therefore retained by each state, and may be exercised as well in relation to persons in transitu as in relation to those remaining in the state."
- (5) "The power to regulate commerce may be exercised over individuals as passengers, only while on the ocean, and until they come under state jurisdiction. It ceases when the voyage ends, and then the state laws control."

The above syllabus reaffirmed in the opinion of the Court on page 288, and quoting from said opinion, it is said:

"This power to regulate commerce is, as has been expressly declared by the Supreme Court of the United States, did not prevent the state of Mississippi from prohibiting the importation of slaves into that state for the purpose of sale. The same court has held that goods when imported can (notwithstanding any state law) be sold by the importer in the original packages. It follows that the power to regulate commerce confers on the United States some check on the state legislation as to goods or merchandise, after it is brought into the state, but none as to persons, after they arrive within such state."

#### INTENT IMMATERIAL.

It might be said that the intention of the person sending the transportation, and the intention of the person transported is the governing feature. This might be urged by reason of the phrase of the law under consideration, which provides among other things, that any person who shall obtain transportation for, etc., "with the intent" that such person transported shall come into another state for the purpose of prostitution. Upon this point, however, the Supreme Court of the United States in the case of United States v. E. C. Knight & Co., 156 U. S., lays down the rule that the intent in a case of this character does not govern, but it is the condition in which each article or subject is found.

The best way to ascertain this rule is to read the decision of Chief Justice Fuller in that case, as found

on page 13, which says, amongst other things:

"It will be perceived how far-reaching the proposition is that the power of dealing with a monopoly may be exercised by the general government wherever interstate or international commerce may be ultimately affected. The regulation of commerce applies to the subjects of commerce and not to matters of internal police. Contracts to buy, sell or exchange goods to be transported among the several states, the transportation and its instrumentalities, and articles bought, sold, or exchanged for the purpose of such transit among the states, or put in the way of transit, may be regulated, but this is because they form part of interstate trade or commerce. fact that an article is manufactured for export to another state does not of itself make it an article of interstate commerce, and the intent of the manufacturer does not determine the time when the article or product passes from the control of the state and belongs to commerce."

Thus we can further observe from the language of Chief Justice Fuller, that the regulation of commerce applies only to the subjects of commerce, and if any article be a subject of commerce, and as stated in decisions heretofore quoted, are merchantable, then Congress may regulate the instrumentalities of transportation, and not otherwise, and as before stated, we respectfully submit that the person prohibited under the law, under consideration, from being transported is not merchantable, and therefore, not subject to the regulations of interstate commerce.

## CONGRESS HAS NO RIGHT TO REGULATE OR PUNISH PROSTITUTES.

It is undoubtedly conceded that Congress has no right or authority to pass any law regulating or punishing the crime of prostitution, or the procuring of prostitution in any of the states of the Union. These crimes, if committed in any of the states of the Union, come under the police powers of the various states with which Congress has no right to interfere.

The various states of the Union have not delegated to Congress the right to interfere with their police powers, such as the regulation of prostitution, etc.

#### ARTICLE IX.-CONSTITUTION.

Article IX of the Constitution of the United States provides:

"That the enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

#### ARTICLE X.-THE CONSTITUTION.

Article X of the Constitution of the United States provides:

"That the powers delegated to the United States by the Constitution, or prohibited by it to the states, are reserved to the states respectively, or to the people."

The government of the United States is one of enumerated powers, and all powers not granted are reserved to the people, and speaking on this subject, the Supreme Court of the United States in the case of Kansas v. Colorado, et al, 206 U. S. p. 46, Syllabus 2 reads as follows:

"The government of the United States is one of enumerated powers; that it has no inherent powers of sovereignty; that the enumeration of the powers granted is to be found in the Constitution of the United States, and in that alone; that the manifest purpose of the Tenth Amendment to the Constitution is to put beyond dispute the proposition that all powers not granted are reserved to the people, and that if in the changes of the years further powers ought to be possessed by Congress, they must be obtained by a new grant from the people."

Quoting from the opinion of the court on page

'That this is such a government (of enumerated powers) clearly all legislative power must be vested in either the State or National Government; no legislative powers belong to the State Government other than those which affect solely the internal affairs of that state; consequently all powers which are national in their scope must be found vested in the Congress of the United States. But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in the grant of powers is in direct conflict, with the doctrine that this is a government of enumerated powers. That this is such a government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the Tenth Amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed a widespread fear that the National Convention might, under the pressure of a supposed general welfare, attempt to exercise

powers which had not been granted.

With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. It reads: 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.' The argument of counsel ignores the principal factor in this article, to-wit, 'the people.' Its principal purpose was not the distribution of power between the United States and the states, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it, 'We, the people of the United States,' not the people of one state, but the people of all the states, and Article X reserves to the people of all the states the powers not delegated to the United States. The powers affecting the internal affairs of the states not granted to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States. The people who adopted the Constitution knew that in the nature of things they could not forsee all the questions which might arise in the future, all the circumstances which might call for the exercise of further national powers than those granted to the United States, and after making provision for an amendment to the Constitution by which any needed additional powers would be granted, they reserved to themselves all powers not so delegated. This Article X is not to be shorn of its meaning by any narrow or technical construction, but it is to be considered fairly and liberally so as to give effect to its scope and meaning."

In the case of Fairbanks v. United States, 181 U. S., 283, Syllabus 3 reads as follows:

"If the Constitution in its grant of powers is to be able to carry into full effect the powers granted, it is equally imperative that where prohibition or limitation is placed upon the power of Congress, that prohibition or limitation should be enforced in its spirit and its entirety."

Quoting from the opinion of the court on page 288:

"We admit, as all must admit, that the powers of the government are limited, and that these limits are not to be transcended. But we think that some consideration of the Constitution must allow the national Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

(Quoting Chief Justice Marshall in McCullough v. Maryland, 4 Wheat., 421.)

#### PERSONS NOT COMMERCIAL ARTICLES.

That persons have never been regarded as commercial articles, or as subjects of commerce, and are not merchantable, has been decided not only in the case of New York v. Miln, 11 Peters, hereinbefore spoken of, but we find Chief Justice Marshall in the early case of Boyce v. Anderson, 2 Peters, 149, which was a case wherein a slave was injured by a railroad company, laying down the rule that slaves are regarded as passengers, and not as packages of goods. Syllabus 1 of said case reads as follows:

"The law regulating the responsibility of common carriers, does not apply to the case of carrying intelligent beings, such as negroes; the carrier has not, and can not have over them the same control that he has over inanimate matter; in the nature of things, and in their character, they resemble passengers, and not packages of goods. It would seem reasonable therefore, that the responsibility of the carrier should be measured by the law which is applicable to passengers, rather than by that which is applicable to the carriage of common goods."

Quoting from the opinion of the court, Chief Justice Marshall says as follows:

"This was an action brought in the Court of the United States for the Seventh Circuit and District of Kentucky against the defendants, owners, etc. There being no special contract between the parties in this case, the principal question arises on the opinion expressed by the court,

'that the doctrine of common carriers does not apply to the case of carrying intelligent beings, such as negroes.' The doctrine is, that the carrier is responsible for every loss which is not produced by inevitable accident. It has been pressed beyond the general principles which govern the law of bailment, by consideration of policy. Can a sound distinction be taken between a human being, in whose person another has an interest, and inanimate

property?

A slave has volition, and has feelings which can not be entirely disregarded. properties can not be overlooked in conveying him from place to place. He can not be stowed away as a common package; not only does humanity forbid this proceeding, but it might endanger his life or health. Consequently, the rigorous mode of proceeding can not safely be adopted, unless stipulated for by special contract. Being left at liberty, he may escape. The carrier has not, and can not have, the same absolute control over him that he has over inanimate matter. In the nature of things, and in his character he resembles a passenger, not a package of goods. It would seem reasonable, therefore, that the responsibility of the carrier would be measured by the law which is applicable to passengers, rather than that which is applicable to the carriage of common goods.

It would thus seem from these numerous decisions cited, that the law in question, conflicts with the police power of the states, in that it endeavors to fix the status of the woman and girls spoken of in said law; but said women and girls not being subjects of commerce, they are not even regarded in the category of passengers, in that an attempt is made

to prohibit any person from assisting in their transportation; and we therefore submit that said law is repugnant to the third paragraph of the 8th clause of the Constitution of the United States, and that it is further repugnant to the 9th and 10th Articles of the constitution of the United States, as they come under and within the reserved powers of the state, and viewing the questions involved from purely a legal standpoint, we respectfully submit that said law is not valid. And using the language of the Supreme Court of the United States in the case of Norton v. Shelby County, 118 U. S., 425:

"An unconstitutional act is not a law. It is in legal contemplation as though it had never been passed."

# INDEPENDENCE BETWEEN COMMERCIAL POWER AND POLICE POWER.

The decisions of this Court are unanimous to the effect that Congress cannot interfere with the police powers of the states. Speaking upon the power of Congress to pass a law infringing upon the police powers of the states, by virtue of the commerce clause of the Constitution, hereinbefore mentioned, Chief Justice Fuller in the case of the United States v. E. C. Knight & Co., 156 U. S., p. 13, uses the following language:

"It is vital that the independence of the commercial power and of the police power and the delimination between them, however sometimes perplexing, should always be recognized and observed, for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the states as required by our dual form of gov-

ernment; and acknowledged evils, however grave and urgent they may appear to be, had better be borne, than the risk be run, in the effort to suppress them, of more consequences by resort to expedients of even doubtful constitutionality."

## CONGRESS HAS NOT PROHIBITED PROS-TITUTES FROM TRAVELING.

There is no question but what Congress has the right to enact any criminal statute which may be necessary and proper for carrying into execution the power specially granted under Secton 8, Article 1 of the Constitution.

Congress has under the Commerce clause of the Constitution power to regulate the commerce and perhaps forbid commerce in any commodity, or to forbid any particular form of commerce, and when it has exercised that power of regulation, then, and not until then, the power to enact a criminal statute as a convenient means of carrying into execution the power to forbid under the Commerce clause arises.

To make it plain, Congress has not enacted by any statute that it shall be unlawful for any woman or girl to travel from one state to another for any purpose whatever. Until Congress has so legislated, then the incidental power to create a criminal statute as a convenient method of enforcing a law already enacted, does not arise.

In the liquor cases, the slaughter-house cases and a long line of decisions it has been declared "That the power vested in Congress to regulate commerce among the several states is to prescribe the rule by which that commerce is to be governed"—that it must be governed by uniform system and so

long as Congress does not by any law regulate it, it indicates its will that such commerce shall be free and untrammelled.

This doctrine is laid down in the case of Welton v. State of Missouri, 91 U.S., p. 275. Syllabus 4 of said case reads as follows:

"The non-exercise by Congress of its power to regulate commerce among the several states is equivalent to a declaration by that body that such commerce shall be *free* from restrictions."

In the case of Hall v. DeCuir, 95 U. S., 485, the Supreme Court in its opinion on page 490, says:

"The power of regulation may be exercised without legislation as well as with it. By refraining from action, Congress, in effect, adopts as its own regulations those which the Common law or the Civil law, where that prevails, has provided for the government of such business, and those which the states in the regulation of their domestic concerns have established affecting commerce, but not regulating it within the meaning of the Constitution. In fact, Congressional legislation is only necessary to cure defects in existing laws, as they are discovered and to adopt such laws to new developments of trade.

"As was said by Mr. Justice Field, speaking for the court in Welton v. State of Missouri, 91 U. S., 282, 'inaction (by Congress) \* \* is equivalent to a declaration that interstate commerce shall remain free and untrammelled."

And in the case of Webber v. Virginia, 103 U. S., p. 344, Justice Field rendering the opinion of the court, says on page 351 (speaking of the non-action of Congress in regulating commerce)—

"Its non-action in such cases, with respect to any particular commodity or mode of transportation, is a declaration of its purpose that the commerce in that commodity or by that means of transportation shall be free."

In the case of Smith v. Alabama, 124 U. S. 465, Mr. Justice Matthews in the opinion on page 473, says:

"As the regulation of commerce may consist in abstaining from prescribing positive rules for its conduct, it can not always be said that the power to regulate is dormant, because not affirmatively exercised. And when it is manifest that Congress intends to leave that commerce, which is subject to its jurisdiction, free and unfettered by any positive regulations, such intention would be contravened by state laws operating as regulations of commerce as much as though these had been expressly forbidden"

Now, then, Congress having passed no act making it unlawful for women to travel from state to state for any purpose, it is equivalent to the declaration of Congress that such travel by such person shall be free and untrammelled.

If then the travel from state to state by women must be considered to be declared by Congress as "free and untrammelled," how then may Congress enact a criminal statute, making it a crime for any person to incidentally assist such travel by such women. Is it not making the person who assists an accessory, not to a crime, but to an act that Congress has declared to be lawful?

The right of Congress to enact a criminal statute can only be an auxiliary method of enforcing some legislation under its express power. If it has not exercised the express power, the auxiliary power fails for something to stand upon, and this is illustrated in the case of The United States v. De Witt, 76th U. S., (9 Wallace), page 41, in which case a statute making it a misdemeanor, punishable by fine and imprisonment, to mix for sale naptha and illuminating oils, etc. An indictment in this case went to the Supreme Court on a division of opinion. It was held that under the Internal Revenue taxing power that the Government might have made a statute regulating the mixing of these commodities as a measure plainly adapted to secure the collection of a tax imposed, but as Congress had not exercised its taxing power, its incidental regulating power did not exist.

In these cases, as will be seen, Congress has not passed a law prohibiting women from traveling for any purpose, and I submit therefore that it can not be a crime to aid such women in traveling from place

to place.

Congress has not exercised its power to direct that no woman or girl shall travel from place to place for any purpose whatever, moral or immoral, but, on the contrary, by its failure to so legislate, by its very negative act has declared that right to exist.

While that right exists, a criminal statute of the character discussed, which of necessity must be auxiliary to some other, must be void if the other statute,

to-wit, the regulatory statute, does not exist.

I therefore submit for the consideration of the court the following:

First. Congress has not forbidden women to travel from state to state for an improper purpose.

Second. Under the decisions, the Commerce power of Congress is a dormant power until brought into action.

Third. The failure of Congress to regulate or forbid a certain class of commerce is equivalent to a declaration of Congress that that commerce shall be free and untrammelled.

Fourth. It can not be a crime to assist commerce which Congress by its inaction has declared shall exist free and untrammelled, because it has no power to pass a criminal statute, except to enforce the provisions of a regulating statute, which, in these cases, has not been enacted.

If within the enumerated powers granted to Congress by the Constitution, Congress had the right to exclude any particular class of persons from traveling in interstate commerce, then if any particular class of persons could be prohibited from traveling from state to state, any person or persons assisting in the transportation of such person could be guilty of a crime. Where, however, there is absolutely nothing in the Constitution authorizing Congress to pass a law prohibiting the migration of persons from state to state who are citizens of this country, regardless how immoral, depraved and degraded they may be, then surely it can be no crime for any person to assist in the obtaining of transportation of such a person.

#### REGULATION OF COMMERCE DEFINED.

In the Passenger cases, 7 Howard, 283, on page 436, this Court defines "Regulation of Commerce" to mean—"It is the power to regulate; it is to prescribe the rules by which Congress is governed."

## DISTINCTION BETWEEN THE LOTTERY CASES AND THE WHITE SLAVERY TRAFFIC.

The power to regulate gives the power to prohibit the importation of transportation of commercial articles, etc. In the Lottery cases, decided in 188 U. S., p. 321, it was held that Congress had the right to stop the carriage of lottery tickets from one state into another, because they were articles of value. and the syllabus of said case reads as follows:

- (1) "Lottery tickets are subjects of contract among those who choose to buy and sell them, and their carriage by independent carriers from one state to another is therefore interstate commerce which Congress may prohibit under its power to regulate commerce among the several states."
- (2) "Legislation under that power may sometimes properly assume the former, or have the effect, of prohibiting."
- "Legislation prohibiting the carriage of such tickets is not inconsistent with any limitation or restriction imposed upon the exercise of the powers granted to Congress."

In the Lottery Cases, it was held that lottery tickets being a promise for money-buying and selfing—was commerce, and same being injurious to the

welfare of the people could be prohibited.

An examination of the authorities will show that wherever Congress attempted to prohibit, or did prohibit, the importation of any article or commodity, that in no case of such attempted prohibition—persons were prohibited from traveling from place to

place, or even transported from place to place, and the only right that Congress has, under the enumerated powers of the Constitution is in cases of immigration, as the subject of immigration comes under the power of Congress to regulate commerce "with foreign countries."

The argument can not be advanced that Congress has the right to keep any person from traveling from state to state, because the person arriving at his destination *intended* to commit a crime upon his arrival. And if such person did commit a crime upon his arrival in a sister state, the Government of the United States could not assume jurisdiction because such person had traveled over interstate commerce for a criminal purpose. The police power of the state is supreme in such a case.

Even aliens come under the regulation of the police powers of a state as soon as they mingle with and become a part and parcel of the population of the state, and they are subject to the penal laws of such state.

True it is, that under the immigration law now in effect, an immigrant who becomes a criminal may be deported, but this law does not supersede state law punishing the alien for the transgression of the laws of the state.

And thus, in the case of Keller v. U. S., and Ullman v. U. S., 213, U. S., 138, which was a prosecution by the Government of the United States under the Act of Congress of February 20, 1907, which made it a felony for any person to import any woman or girl to come to the United States for the purpose of prostitution, and also making it a felony to harbor alien prostitutes.

Keller and Ullman were convicted for harboring alien prostitutes, and the Supreme Court of the United States held that section of the law unconstitutional, because the offense charged against the defendants was a regulation of a matter within the police power reserved to the state, and not within any power delegated to Congress by the Constitution.

The Syllabus in said case reads as follows:

- (1) Speaking generally, the police power is reserved to the states, and there is no grant thereof to Congress in the Constitution.
- (2) Notwithstanding the offensiveness of the crime, the courts can not sustain a penal statute if the power to punish the same has not been delegated to Congress by the Constitution.
- (3) Where there is collision between the power of a state and that of Congress, the superior authority of the latter prevails. While Congress has power to exclude aliens from, and to prescribe the terms and conditions on which aliens may come into the United States, (Turner v. Williams, 194 U. S., 279), that power does not extend to controlling or dealing with aliens after their arrival merely on account of their alienage.
- (4) That portion of the Act of Feb. 20, 1907, c. 1134, 34 State, 898, makes it a felony to harbor alien prostitutes, held unconstitutional as to one harboring such a prostitute without knowledge of her alienage or any connection with her coming into the United States, as a regulation of a matter within the police power reserved to the state, and not within any power delegated to the Congress of the United States."

The Court in its opinion on page 144, says:

"While the keeping of a house of ill-fame is offensive to the moral sense, yet that fact must not close the eye to the question whether power to punish therefor is delegated to Congress or is reserved to the state. Jurisdiction over such an offense comes within the accepted definition of the police power. Speaking generally, that power is reserved to the states, for there is in the Constitution no grant thereof to Congress."

And on page 148, the court says:

"That there is a moral consideration in the special facts of this case, that the act charged is within the scope of the police power, is immaterial, for as stated, there is in the Constitution no grant to Congress of the police powers."

#### POWERS OF REGULATION DEFINED.

"The power conferred upon Congress to regulate commerce with foreign nations and among the several states, is the power to prescribe the rules by which such commerce shall be governed—that is, the conditions upon which it shall be conducted; to determine how far it shall be free and untrammelled; how far it shall be burdened by all duties and imposts, and how far it shall be prohibited."

Enclyclopedia of U. S. Sup. Ct. Decisions, Vol. 7, p. 304.

See numerous cases cited.

In the case of U. S. v. Marigold, 9 How., p. 559, Syllabus reads as follows:

"Under the power to regulate commerce, Congress can exclude, either partially or wholly, any subject belonging within the *legit-imate sphere* of commercial regulation."

We have seen heretofore that persons are not the subject of commerce and not until the Constitution authorizes Congress to pass a law prohibiting persons from traveling from state to state by reason of their circumstances or occupation can such a law under consideration be valid.

## FREEDOM OF TRAVEL AND INTERCOURSE CANNOT BE INFRINGED.

Each and every citizen, regardless of his station in life or occupation, has a right to travel from place to place without interference or molestation \* \* unless such a person has forfeited the protection of the law and is under restraint by the legal authorities for a violation of the laws, and that prostitutes are not subjects of national intercourse can be readily seen in the reading of the opinion of Justice McLean in the Passenger cases, 7 How., 283. The learned Justice on page 426 says:

"Paupers, vagabonds and fugitives never have been subjects of rightful national intercourse or of commercial regulations, except in the transportation of them to distant colonies to get rid of them, or as punishment as convicts. They have no rights of national intercourse; no one has a right to transport them, without authority of law, from where they are to another place, and their only rights where they may be are such as the law gives to all men who have not altogether forfeited this protection."

## EQUAL PROTECTION OF THE LAWS.

Article XIV of the Amendment to the Constitution of the United States distinctly provides that "no person shall be denied the equal protection of the laws," and therefore, even though a woman or girl may be a prostitute, that not until such time as she shall have been convicted of such offense and under restraint, can any legislative body say that such a person shall not have the right to go from place to place, and having the right of traveling from place to place, it can not be a crime for anyone to assist her.

In the case of Keller and Ullman, 213 U. S., hereinbefore cited, Justice Brewer says:

"That moral considerations in the special facts of any case should not be considered, if no authority existed for the enactment of any particular law."

And again we find the rule laid down in the Encyclopedia of the United States Supreme Court Decisions, Vol. IX., p. 509:

"The mere fact than an enactment purports to be for the protection of the public safety, health or morals is not conclusive upon the courts, and if the statute purporting to have been enacted to protect the public safety, health or morals has no real or substantial relation to those objects, or that it is a palpable invasion of rights secured by the fundamental law, it

is the duty of the court to look beyond its mere letter and adjudge and thereby give affect to the Constitution.

See numerous decisions cited.

"The courts are not bound by mere forms, nor are they to be misled by mere pretenses. They are at liberty \* \* \* indeed, are under a things, whenever they enter upon the inquiry or solemn duty. \* \* to look at the substance of whether the Legislature has transcended the limits of its authority. If, therefore, a statute purporting to have been enacted to protect the public health, or public morals, or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of the rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution."

-Mugler v. Kansas, 123, U. S., 623-661.-

"If the State Legislature, under the pretense of guarding the public health, or public morals, or the public safety, should invade the rights of life, liberty or property, or either rights secured by the supreme law of the land, it would be the duty of the courts to declare such a law unconstitutional."

-Powell v. Penn., 127 U. S., 678-686.-

The Postal Laws of the United States are amply sufficient to cover cases of such a character. Thus, if Congress would pass a law prohibiting the use of the mails for persons inducing women or girls to go from place to place for the purpose of prostitution, and would prohibit the use of the mails to send such

transportation, such a law would be valid, for as is said in the case In Re Rapier, 143 U. S., 110, which was a prosecution by the United States for sending lottery tickets, circulars and newspapers, advertising lotteries, through the mail, Chief Justice Fuller in his opinion on page 134, says:

"The states, before the Union was formed, could establish post-offices and post-roads, and in doing so could bring into play the police power in the protection of their citizens from the use of the means so provided for purposes suposed to exert a demoralizing influence upon the people. When the power to establish postoffices and post-roads was surrenderd to Congress, it was as a complete power, and the grant carried with it the right to exercise all of the powers which made that power effective. It is not necessary that Congress should have the power to deal with crime or immorality within the states, nor to maintain that it possesses the power to forfeit the use of the mails in aid of the perpetration of crime and immorality."

The various states have never surrendered the police power to Congress, and therefore, the law in question is an infringement upon the police powers of the state.

In the case of King et al v. American Transportation Co., 14 Fed. Cases, 512, Syllabus 8 reads as follows:

(8) "Congress has power to legislate over navigation, as well as trade " " over intercourse, as well as traffic " " as to what shall constitute American vessels and the national character of the same, who shall navigate them, and may prescribe rules and regulations for the intercourse and navigation of such vessels

between the different states, but this constitutional grant of power 'to regulate commerce with foreign nations and among the several states,' does not confer upon Congress the authority to extend its legislation and authority over the entire sphere of legislation of the several states."

So we see in this case that Congress has a right to prescribe the rules as to who shall operate trains, the rates to be charged, etc., but it has no power to say what class of people shall not be carried on said trains, unless they be convicted malefactors of the law, under restraint, or undesirable aliens so declared by law.

- (9) "Each state has exclusive control of all matters appertaining to its own internal police. It can establish and regulate ferries; control the moving of vessels in its harbors, and enact health and inspection laws. It has the same unlimited jurisdiction over all persons and things within its limits as foreign nations, where that jurisdiction is not surrendered or restrained by the Constitution of the United States.
- (10) "Courts have never gone so far in their interpretration of this constitutional power of Congress, as to declare that it is operative upon persons and things upon land within the boundaries of state jurisdiction. It has never been controverted that the rights and duties of persons in relation to property are rightfully prescribed and controlled by the laws of the state within whose limits it is found."

#### FREEDOM OF SOCIAL INTERCOURSE.

We have endeavored to show that it is not within the province of Congress, or of any legislative body, to restrict or restrain the migration of any person, or their social intercourse.

Section 457 of Freund on Police Power, p. 487, lays down the rule:

"That social intercourse forms a part of constitutional liberty. Therefore, the law can not forbid free citizens to speak or walk or visit with each other."

It has been held in the case of Ex parte Walter Smith, 33 L. R. A., 606 (135 Mo., 223), that, "an ordinance forbidding association with thieves, etc., with the intent to agree to commit an offense, or to cheat a person, is an unconstitutional invasion of personal liberty.

The court in its opinion, says:

"This ordinance is now attacked on the ground of its constitutionality in that it invades the right of personal liberty by assuming to forbid that any person should knowingly associate with those who have the reputation of being thieves, etc. And certainly it stands to reason that, if a legislature, either state or municipal, may forbid one to associate with certain classes of persons of unsavory or malodrous reputations, by the same token it may dictate who the associates of anyone may be. But if a legislature may dictate who our associates may be, then what becomes of the constitutional protection of personal liberty, which Blackstone says 'consists in the power

of locomotion, or changing situation, or moving one's person to whatsoever place one's own inclination may direct, without imprisonment or restraint, unless by due process of law.' 1 Bl. Com., 134. Obviously, there is no difference in point of legal principle between a legislative or municipal act which forbids certain associations, and one which commands certain associations. We deny the power of any legislative body in this country to choose for our citizens who their associates shall be."

And in the case of Paralee v. Camden, 49 Arkansas, 165 (4 South Western, 654), it was held "that a municipality has not the power to make it unlawful for a prostitute to return to that town." And the court in that case said "that a municipality can not make the mere presence of such a person in a town a crime."

In the case of Millikin v. Weatherford, 54 Texas, 388, (38 Amer. Rep., 629), it was held that "an ordinance making it unlawful to rent any premises or place within the city limits to any prostitute or lewd woman, was void," The court in that case said:

"That the unfortunate and degraded class against whom the ordinance was mainly intended, however far they may have fallen beneath the true mission of woman, which is one of our highest duties to foster and protect in social and domestic life, are still human beings entitled to shelter and the protection of the law; and the council did not have power to so far prescribe them as a class as to make it a penal offense for any one to rent them a habitation without regard to its use."

Speaking further on the right of citizens to have their social intercourse free from restraint, Freund in Section 457, paragraph 4, p. 488, says:

"The denial of the power of the state follows from the consideration that there must be an intimate social sphere in which the use and development of individual faculties is absolutely inconsistent with the exercise of compulsion, and especially that association with other persons is part of the enjoyment of life, and that the entire separation of different classes, in the absence of specific and individual elements of danger, to be established by due process of law, can not be regarded as necessary to the public welfare, where the theory of equality of rights prevails."

Section 490 of Freund on Police Power, on page 528, speaking of the right to migrate within the United States, says:

"The right to migrate within the United States is protected against adverse state legislation, because it is one of the privileges and immunities of a citizen of the United States; if so, it ought to protect against federal as well as state legislation, although the Fourteenth Amendment speaks only of the latter; for the privileges secured by the Fourteenth Amendment are fundamental, and fundamental rights under our theory of government can not be abridged by legislation."

"No attempt has hitherto been made to control by act of Congress the right of citizens to move from place to place or to settle in any

place within the United States."

In the case of In re Lee Sing et al, 43 Fed. Rep., 359, it was held:

"That an ordinance enacted by the city of San Francisco known as the 'Bingham Ordinance,' which requires all Chinese inhabitants to remove from the portion of the city thereafter enacted by them, outside the city and county of San Francisco, or to another designated part of the city and county, is void as being in direct conflict with the Constitution, treaties and statutes of the United States, and particularly in the sense that it is discriminating and unequal in its operation, and an arbitrary confiscation of property without due process of law."

Section 491 of Freund on Police Power, on p. 529, speaking on the subject of migration and settlement within a state, says:

"If it is a privilege of a citizen of the United States to move freely within the whole country, the power of the state to control the migration and settlement of its own people within its own territory must logically be denied, for the whole country includes the state. But apart from the federal constitution, the right of each individual to travel about and to choose his residence, must be regarded as an essential part of the liberty which every state constitution guarantees. Experience has shown that governmental interference with the natural movement of population is unwise, oppressive and futile. " " "

"It would not be difficult to find plausible arguments in favor of a policy restraining migration. \* \* But all such considerations are

outweighed by the great advantage which the individual and directly the state gains from absolute liberty of movement. \* The state may offer inducements to direct migration, and may use the proprietary control which it exercises over public lands for that purpose; but individual liberty is not thereby impaired.

"If legitimate purposes do not justify the impairment of the general liberty of migration and settlement, measures for the separation of classes must be still more obnoxious to the constitution. " " A compulsion of this character will almost invariably be contrary

to the equal protection of the laws."

## In Section 699, p. 720, Freund says:

"The right to associate with other free citizens is an essential constitutional right, and may be regarded as a privilege of United States citizenship; it should extend to travel on public highways as well as to other social and economic relations; and while such a right may perhaps be in some degree restrained by public exigencies under given conditions, as in case of contagious disease, it is too important and fundamental to yield to a mere sentiment of prejudice."

If, therefore, a person of the class spoken of in the law under consideration, is prohibited from traveling from place to place, which has heretofore been shown can not be done, it would amount to a denial to such person of "the equal protection of the law."

And Freund, in Section 706, page 727, speaking of EQUAL PROTECTION, says:

"A similar prohibition rests upon the states in consequence of the Fourteenth

Amendment, which forbids them to deny to any person within their jurisdiction the equal protection of the law."

The plaintiffs in error and petitioners, therefore, respectfully submit that the law with which they are charged with violating is unconstitutional, and that the indictment and convictions thereunder should be held to be an absolute nullity.

# VARIANCE BETWEEN ALLEGATION AND PROOF IN BOTH CASES.

Another important question arises in the consideration of these cases. In case No. 603, to-wit, Della Bennett, plaintiff in error and petitioner, was indicted and convicted for having caused the transportation in interstate commerce of Opal Clark, and the testimony shows that the true and correct name of the Clark woman is Jeanette Laplante.

## (See Page 30 of the Record.)

"Q. So Laplante is your right name now?"
"A. Yes, sir.

## Quoting from page 39 of the Record-

- "Q. Now, madam, this morning you told me that your right name was Laplante. What is your right first name?
  - "A. Jeanette."
  - "Q. Your right name is Jeanette?"
  - "A. Yes, sir.
  - "Q. That is your right maiden name, was it?"
  - "A. Yes, sir.
  - "Q. Did you ever go by the name of Nellie?"
  - "A. I went by that name."

- "Q. By how many different names have you gone?"
  - "A. Just Opal and Nellie."
  - "Q. And Jeanette?"
  - "A. Jeanette is my right name."

This question is raised in the fourth and fifth Assignment of Errors in this Court.

In case No. 602, Emma Harris et al, plaintiffs in error and petitioners, v. The United States, it appears that Harris and Green were indicted for having caused the transportation of two women known as Nellie Stover and Stella Larkins. The testimony developed in said case that the right name of the woman known as Stella Larkins was Estelle Bowles. (Page 25 of the record.)

"A. Well, my name is—my right name I went by is Estella Bowles."

And that the woman known as Nellie Stover—that her right name was Myrtle Watson. (Page 37 of the record.)

- "Q. What is your real name?"
- "A. Myrtle Watson."

In the latter case, to-wit, Harris et al., the variance in the names was not objected to by the then counsel who represented Harris et al., but in view of the fact that this cause is now before this court on a writ of certiorari, as well as on a writ of error, I take the liberty of presenting the legal phases involved in the question of variance, so that if an injustice was done, it may now be corrected. The questions, however, were raised in the Bennett case, and I will therefore argue and brief the questions involved together.

## ARGUMENT OF MR. LEVY ON THE SUBJECT OF VARIANCE.

The indictments do not charge that either of the plaintiffs in error and petitioners caused the transportation of Stella Larkins, also known as Estella Bowles, or alias Stella Bowles, and Nellie Stover, also known as Myrtle Watson; or that Della Bennett caused the transportation of Opal Clark, also known as Jeanette Laplante, or alias Jeanette Laplante. The names under which these women went were assumed and fictitious. Their assumed names was a fact which could have easily been ascertained by the Government, and their right names put in the indictment.

As a matter of fact, therefore, the defendants below, plaintiffs in error and petitioners here, did not purchase or procure transportation for Nellie Stover, Stella Larkins and Opal Clark as set forth in the indictments.

Objections were raised at the trial against the admission of testimony concerning the women whose names appeared in the indictments when their true names became known. The objections were overruled and exceptions taken.

We therefore submit that there was a material variance between the facts alleged in the indictments and the proof submitted in the cases, and that an instructed verdict for acquittal should have been given.

In the case of Goodlove v. State, 82 Ohio State page 365, it was held:

"An allegation in an indictment is material, when \* \* where an indictment charges the accused with having assaulted and killed one 'Percy Stuckey alias Frank McCormick,' evidence that a person commonly known as Frank McCormick was assaulted and killed

will not sustain a verdict of guilt, unless it is shown that Frank McCormick and Percy Stuckey were the same person."

In the case above cited, Goodlove was indictd for having killed one Percy Stuckey, alias Frank McCormick. The evidence in that case shows that it was Frank McCormick who was killed and not Percy Stuckey.

In the case under consideration, the evidence shows that it was Estella Bowles, and not Stella Larkins; Myrtle Watson and not Nellie Stover, who were caused to be transported by Green and Harris, and that it was Jeanette Laplante and not Opal Clark who was caused to be transported by Della Bennett.

We do not think that it will be seriously controverted that the correct names of the persons transported must be alleged in the indictments. The reason for the rule is entirely plain. For should an accused be charged with transporting—say Mary Smith—and it appeared in the evidence that it was Susie Jones instead of Mary Smith that was transported, an acquittal would not be a bar to a prosecution for transporting Mary Smith. If convicted and sent to the penitentiary, after serving her term, the plaintiff in error could be brought back and tried for the transporting of Susie Jones.

There are numerous authorities on that subject, and same can be found in the brief submitted by the plaintiff in error in the case of Goodlove v. State, 82 Ohio State, page 367. And to quote from the decision of Justice Crew of the Supreme Court of Ohio, who rendered the opinion in said case, on page 374:

"The rule being well settled that no allegation in an indictment descriptive of that which is essential to the charge can be disregarded or rejected, the crime thus charged in this indictment is not made out or established by proof, only that the accused assaulted and killed one Frank McCormick, there being no evidence whatever to show that said Frank McCormick and Percy Stuckey were one and the same person."

The defendant in this case was discharged.

#### VARIANCE IN NAMES.

"A variance between the name of a person as alleged and as it is proved, whether it be the name of the person assaulted or killed, or of the person who owned the property which was the subject of the crime, has been held fatal."

-Underhill on Criminal Evidence, 2d Ed., Section 33.-

See numerous decisions cited.

"Identity of the deceased that the party named in the indictment must be proved beyond a reasonable doubt \* \* the name must be proved as alleged. Failure to prove the Christian name of the deceased is fatal."

Underhill Criminal Evidence, 2d Ed., Section 316.

Elliott on Evidence, Section 2715. Penrod v. People, 89 Ill., 150, 151.

"The identity of the stolen property must be established substantially as laid in the indictment. Where cattle are described by age, color, species or brand, these details become material, and a variance is fatal." Underhill on Criminal Evidence, 2d Ed., Section 296.

Hodnett v. State, 117 Georgia, 705. Wharton Criminal Evidence, Section 124. See other numerous cases cited in Underhill.

\* "Where the proof fails to support the allegations, not in some particulars only, but in their entire scope and meaning, and if the divergence extends to such an important fact, or group of facts, that the cause of action or defence as proved would be another than that set up in the pleadings, it is not a variance, but a failure of proof which can not be cured by amendment and the action must be dismissed."

Jones on Evidence, Section 234, pp. 295, 296.

See numerous cases cited by Jones.

The plaintiffs in error and petitioners in this case did not know any such persons who are mentioned in the indictment as having been transported, etc. The indictment does not apprise them of the fact that the persons who are named in the indictments were known by any other name. There is therefore a material variance, and the plaintiffs in error and petitioners should be discharged.

#### NO TESTIMONY AGAINST EMMA HARRIS.

We respectfully submit to the Court, that an examination of all of the testimony offered by the Government against Emma Harris, alias Emma R. Smith, in case No. 602, will establish the fact that no incriminating testimony of any kind was produced by the Government against Emma Harris. Neither one of the prosecuting witnesses had ever heard of Emma Harris, nor had seen her, until they had come

to the city of Cincinnati at the alleged solicitation of Bessie Green, co-defendant of Emma Harris. Harris was an utter stranger to the prosecuting witnesses, and the crime, if any were committed, was committed by Bessie Green alone when she counselled, advised and aided the two women to come from the city of Charleston, West Virginia, to Cincinnati, Ohio. There is no testimony to the effect that Green was the agent of Harris.

The indictment does not allege that Harris and Green were conspirators, or were acting jointly, and the court permitted over the objection of Harris, testimony to be introduced as to conversations and acts between the prosecuting witnesses and the defendant Green as affecting the guilt of Harris, to which exception was reserved, as is found on page 21 of

the Record.

A grave injustice was therefore done Emma Harris. Crimes with which the plaintiffs in error and petitioners were charged are necessarily of such a heinous nature that anyone whose name might even be mentioned in a casual way in connection therewith, stands in a peculiarly bad light before the court or jury who is called upon to pass judgment. Hence, extreme caution should be exercised by the court that no testimony be submitted to the jury affecting the guilt of one co-defendant as to prejudice the rights of the other co-defendant, unless the court caution the jury that the testimony so submitted can only affect the guilt of the person against whom it is offered

The evidence in this case seems to show that Bessie Green went to Charleston, West Virginia, and there met the women known as Stella Larkins and Nellie Stover; that the Green woman after arriving at Charleston became dissatisfied and determined to return to Cincinnati, and she made the acquaintance of Larkins and Stover, and they having heard that Green was to return to Cincinnati and was leading

the same sort of a life that Larkins and Stover were engaged in, determined to accompany Green to Cincinnati. Larkins and Stover testified that they did not have sufficient money to pay their own fare, and that it was paid by Green. That their trunks were subsequently sent to Cincinnati, C. O. D., and the collection charges were paid by Emma Harris some few days after Larkins and Stover had arrived at Cincinnati and had become inmates of the Harris house.

As before stated, Harris did not send Green to see these women. Harris did not know either Larkins or Stover, and the first time she met them was several hours after they arrived at her house.

Where then is there any testimony to show that Emma Harris either aided, couselled or advised or assisted in procuring transportation for said women, or procured the transportation for them? We therefore submit that if the court should hold the law in question constitutional, that upon the testimony in said case, he court ought to discharge Emma Harris, alias Emma R. Smith.

The women, Larkins and Stover, came here voluntarily. The testimony shows that they had intended to come to Cincinnati some time before they met the Green woman. Larkins testified on page 27—

- "My intention was to come to Cincinnati, but it wasn't right then; I was coming to Cincinnati later on, but I had no idea of going right then."
- "Q. But you had made up your mind before you met that girl (referring to Green) to come to Cincinnati?"
  - "A. Yes, sir; I did."
- "Q. That was of your own free will that you had reached that conclusion?"
  - "A. Yes, sir; I did."

On page 30, Larkins testifies that she had testified before the United States Commissioner as follows:

"Well, I was out, and when I went in I met her (referring to Green), and so we had a talk for a little while, and of course, I wanted to come to Cincinnati \* \* my intentions were to go to Cincinnati before this, and I just fixed and came on."

### On page 30-

"Q. Now, I will ask you if you didn't testify on that same occasion,

"'Q. Where did she say to come to? (Re-

ferring to conversation with Green?)"

"'A. She didn't mention any name.'"
"'Q. Did she mention Emma Harris?""

"'A. No.'"

"Q. Did you so testify?"
"A. Yes, sir; I guess I did."

"Q. Now, when you were asked about your tickets, didn't you testify as follows:

"'Q. Was Nellie with you at that time?"

"'A Yes, sir.' "

"'Q. Who bought her ticket for her?'"

"'A. I don't know; I just bought my own ticket; I don't know who bought it for her.'"

"'Q. You were acquainted with Nellie (meaning Nellie Stover) before you came to Cincinnati?"

"'A. No, sir; I seen her once or twice.""

"'Q. But, you weren't friends?'"

"'A. No, sir.' "

"Q. Did you so testify?"
"A. Yes, sir; I did."

On page 31, the witness Stella Larkins was asked:

- "Q. Now, I will ask you, if you ever received any communication from the other defendant, Mrs. Harris?"
  - "A. From her?"
  - "Q. Yes."
  - "A. Not before."
  - "Q. I mean while you were up there?"
  - "A. While I was in Charleston?"
  - "Q. Any letters, or anything?"
  - "A. No, sir; I never."
  - "Q. Didn't you also testify before-
- "'Q. Now, you never got any letter, or any paper, or any kind of communication from Mrs. Harris?"
  - "A. No, sir; I never."

The witness, Nellie Stover, testifies on page 39-

- "Q. Did she hold out any inducements for you to come, of any kind (referring to Bessie Green.)"
  - "A. No, sir."
  - "Q. Or any promises?"
  - "A. No, sir.
- "Q. It was all done on your own part; you wanted to come, didn't you?"
  - "A. Yes."
- "Q. You never knew Mrs. Harris until you came to Cincinnati?"
  - "A. No; I didn't."

The testimony of Nellie Stover disclosed the fact that the Stover woman looked up the Green woman while she was at Charleston, and the Stover woman accompanied Green to Cincinnati, not at the solicitation of Green, but through Stover's own free will.

On page 40, the following questions were asked

of Stover:

"Q. Now I want to ask you if the night she was there at the house you telephoned to her?"

"A. Yes, I telephoned to her."

"Q. How many times did you telephone to her?"

"A. Twice."

- "Q That was about coming to Cincinnati, was it?"
- "A. I telephoned to her and asked her if she was ready."

"Q. What?"

"A. I telephoned to her and asked her if she was ready, and when I must get ready."

"Q. Well, you wanted to come?"

"A. Sure I wanted to come after she came there, and I told her I wanted to come."

"Q. Well, she talked to you about Cincin-

nati?"

"A. Not much about Cincinnati until after we got there."

It can therefore be seen by the testimony of the prosecuting witnesses that there is an absolute failure of proof as to the culpability of the Harris woman, and in addition thereto, we have the testimony of Bessie Green, co-defendant of Emma Harris, in which she expressly says that Harris is absolutely guiltless.

Green testified on page 47 that she became dissatisfied with the Harris house, of which she was an inmate, and left, going to Covington, Kentucky, and

from there to Charleston, West Virginia.

"Q. Did you tell Mrs. Harris that you were going to Charleston?"

"A. No, sir.

"Q. Did Mrs. Harris give you any money when you left?"

"A. No, sir."

"Q. Ask you to get any girls?"

"A. No, sir."

"Q. Did Mrs. Harris know where you were going?"

"A. No, sir.

The Green woman further testified that when she got to Charleston, she became an inmate of Brown's sporting house (p. 48, Record No. 602), and from Brown's sporting house she went to Anna Parker's sporting house, and it was in these two houses that she met the prosecuting witnesses. That she, (Green) became dissatisfied with conditions in Charleston and determined to return to Cincinnati, and in the general talk which followed the two prosecuting witnesses decided to accompany her to Cin-There is a conflict in the testimony as to who paid the railroad fare, etc., but there can be no conflict in the testimony that the prosecuting witnesses came to Cincinnati voluntarily, and there can be no conflict in the testimony that neither of the prosecuting witnesses knew Harris or had ever heard of her, or had met her before they arrived in Cincinnati, and there is absolutely no testimony to the effect that Harris had anything to do with the coming of the prosecuting witnesses to her house.

The defendant Harris, testifies on page 42, that the Green woman left her home without stating where she was going; that she gave her no money with which to get girls, or for any other purpose; and that she had never met the girls until they arrived in her

home.

It can therefore be readily seen by a careful reading of the testimony in the Harris case that the verdict of guilty is not justified by the facts; that her guilt was not established beyond a reasonable doubt; and even should the Court find the White Slave law constitutional, that Emma Harris should be discharged for failure of proof against her.

#### SEVERE SENTENCE IMPOSED ON HARRIS.

Notwithstanding that the testimony against Emma Harris failed to prove her guilt beyond a reasonable doubt, the Court imposed on her a sentence of four years of hard labor in the Penitentiary and I respectfully submit to the Court that the sentence imposed on Harris is not justified by the facts and in

my humble opinion, entirely too severe.

That there is no evidence against Harris can be noticed from the reading of this brief and the record. The Government, however, contended that the evidence established that Green was the agent of Harris, and that her guilt was proven by circumstantial evidence. Harris and Green both emphatically denied such an imputation, and I respectfully call the Court's attention to the fact that the cardinal rule for the interpretation of circumstantial evidence is—

"When the facts relied upon are equally capable of two interpretations, one of which is consistent with the defendant's innocence, they will not be sufficient to establish guilt."

## THE CASE AGAINST DELLA BENNETT ANALYZED.

Among the assignment of errors in the case of Della Bennett, plaintiff in error and petitioner, v. The United States of America, are the following: "4th. Said Cirucuit Court of Appeals erred in overruling the 24th Assignment of Error upon the record in said cause."

The 24th assignment of error, herein spoken of, relates to the motion made by Della Bennett at the conclusion of the testimony for the Government, on page 51, that the Court instruct the jury to return a verdict of 'not guilty" against her on the second count of the indictment for the reason that the second count of the indictment alleges that the tickets were procured at Chicago, Illinois; whereas the testimony shows that the tickets were procured, in the city of Cincinnati. This motion was overruled and exception noted. (p. 51 of the Record.)

## ARGUMENT OF MR. LEVY ON THE ABOVE PROPOSITION.

The second count of the indictment against the said Della Bennett, reads:

"And the Grand Jurors aforesaid, upon their eaths and affirmations aforesaid do further present that Della Bennett, on or about, to-wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this Court, did then and there unlawfully and knowingly produce and obtain, and cause to be procured and obtained in the City of Chicago in the State of Illinois, two certain railroad passenger tickets from the Cleveland, Cincinnati, Chicago and St Louis Railway Company, then there a common carrier of passengers engaged

in interstate commerce; each of which said tickets was then and there good for transporttion for one person from said City of Chicago in the State of Illinois to the City of Cincinnati in the State of Ohio, upon and over the line and railroad route of said Railway Company,—with the purpose and intention that said tickets should be used by two certain women, to-wit, Opal Clark and Eva Parks, in interstate commerce, to-wit, in going from said City of Chicago in the State of Illinois, to said City of Cincinnati, in said State of Ohio, for the purpose of prostitution."

Opal Clark, the prosecuting witness, testified on pages 24, 25 and 26, that she received telegrams from Bennett that Bennett would send her tickets.

"A. Yes, sir, the tickets were sent. A telegram came then saying that the tickets were at the depot."

"Q. Did you go to the depot?"

"A. Yes, sir.

"Q. What depot?"

"A. Big Four."

"Q. In what city?"

"A. Chicago."

"Q. Did you get anything there?"

"A. Yes, sir."

"Q. What did you get there?"

"A. Two tickets."
"Q. For what?"

"A. To come to Cincinnati."

"Q. By what line; on what road?"

"A. Big Four."

Walter J. Wood, ticket seller, Big Four Railway, Cincinnati, testifies on pages 46 and 47, that the

tickets sent to the Clark woman were purchased in Cincinnati. Wood and Clark were both witnesses for the Government.

We therefore submit that the motion to instruct the jury to return a verdict of "not guilty" in the second count of the indictment should have been granted, as there was a material variance between the allegation and the proof.

Underhill on Criminal Evidence, 2nd Ed., Sec.

33.

Underhill on Criminal Evidence, 2d Ed., Sec. 316.

Underhill on Criminal Evidence, 2d Ed., Sec. 296.

Elliott on Evidence, Section 2715.

Wharton on Criminal Evidence, Section 124.

Jones on Evidence, Section 234.

Penrod v. People, 89 Ill., 150.

Hodnett v. State, 117 Georgia, 705.

We further call the Court's attention to the fact that the indictment against Della Bennett alleges that the said Della Bennett persuaded, induced, enticed and caused two women to be transported, to-wit, Opal Clark and Eva Parks. \* \* \*

A caseful reading of all of the testimony against Bennett, develops that not one iota of testimony was introduced as to the guilt of Bennett in relation to the Parks woman. In fact, the only testimony to connect Bennett with the transportation of the Parks woman was that given by the prosecuting witness, Clark, who testified that she (the Clark woman) was responsible for the coming to Cincinnati of Eva Parks

Testimony of Opal Clark, page 25:

"Q. What did you say to her in your last letter referred to?"

"A. I told her I didn't know whether I could bring any girls or not, but I would try."

"Q. What did you do with reference to

bringing girls?"

"A. I just told my friend I was coming, and she said she was coming, too."

"Q. Who was your friend?"

"A. Eva Parks."

On page 44, in the cross-examination of Opal Clark, she testified as follows:

"Q. Now, then, this Grace Parks, she had never been an inmate of Della Bennett's house before that time, had she?"

"A. No. sir."

"Q. Did you ask her to come with you?"

"A. No. sir."

"Q. How did she happen to come?"

"A. I told her I was coming."

"Q. And she wanted to come along with you?"

"A. Yes, sir."

"Q. She had never met Della Bennett, had she?"

"A. No, sir."

It is to be noted that the Parks woman was not called as a witness, and taking into consideration all of the testimony—there being a failure of proof against Della Bennett—an instruction should have been given for her acquittal.

There is also a total failure of proof that the said Eva Parks came to the City of Cincinnati for the

purpose alleged in the indictment.

The 7th, 8th and 9th assignment of errors in this cause alleged that the Circuit Court of Appeals erred in not sustaining the 34th, 35th and 36th assignment of errors.

The 34th, 35th and 36th assignment of errors in the Court of Appeals, which are the 7th, 8th and 9th assignment of errors in this Court, were special charges requested by Della Bennett to be given to the jury, which were refused by the Court and exceptions taken.

The special charges requested under the 7th assignment of errors is as follows:

"If the jury find from the testimony that either of the women, to-wit, Opal Clark or Eva Parks, were not transported for the purpose of prostitution from Chicago, Illinois, to Cincinnati, Ohio, as is charged against the defendant in the first count of the indictment, it is your duty to acquit the defendant on said first count of the indictment."

I submit that under the testimony given in said cause, that the above instruction should have been given by the Court, in view of the fact that the Clark woman testified on page 43, that she and the Parks woman intended to go on the stage in Cincinnati and Toledo.

The 8th assignment of errors in this cause was the refusal of the trial court to give the following special charge:

"The defendant is charged in the third count of the indictment with unlawfully and knowingly persuading, inducing, enticing and caused to be persuaded, induced and enticed two certain women, to-wit, Opal Clark and Eva Parks, to go from Chicago, Ill., to the City of Cincinnati, Ohio, in interstate commerce for the purpose of prostitution and intention on the part of the defendant that each of said

women, to-wit, Opal Clark and Eva Parks, should engage in the acts of prostitution in the City of Cincinnati. If the jury find from the testimony that the defendant did not persuade, induce and entice, or cause to be persuaded, induced and enticed the two women mentioned, to-wit, Opal Clark and Eva Parks, to come from Chicago, Illinois, to the City of Cincinnati, Ohio, for said unlawful purpose, it is your duty to acquit the defendant."

Exception was taken to the refusal of the Court to give said special charge, and I respectfully submit that it is prejudicial error not to have given said charge, for the question to have been determined by the jury was the *intent* of the defendant and her motive in transporting the two women, if she did transport them.

The 9th assignment of errors is the refusal of the Court in giving the following special charge to

the jury :-

"If the jury find from the testimony that only one woman was transported, or that the defendant was guilty of the acts charged in all three counts of the indictment against one woman who is mentioned in the indictment and not against both, it is your duty to acquit the defendant under all counts of the indictment."

There having been a complete failure of proof as to the culpability of the defendant Bennett with regard to Eva Parks and no testimony having been adduced to prove her guilt in reference to the Parks woman, she was certainly entitled to be acquitted. The Bennett woman was charged in one indictment with having committed two offenses, two separate and distinct crimes, to-wit, the transportation of two specific woman, and notwithstanding that no evi-

dence was adduced to prove her guilt, the jury under instructions from the Court in its general charge, found the Bennett woman guilty on all of the counts of the indictment.

The Court in its general charge, on page 67,

charged the jury as follows:

"All three counts of the indictment charge offences against the defendant with respect to two women. Opal Clark and Eva Parks. There was no evidence tending to show that the defendant had anything to do with Eva Parks with respect to inducing her of her own actthe defendant of her own act-inducing the woman Eva Parks, or enticing, or persuading her to come to the City of Cincinnati. I charge you, gentlemen, in that respect, that the averment of the offences charged against the defendant is first: in causing to be transported the two women for the purposes alleged: secondly, of furnishing transportation-of furnishing tickets in the language of the indictment-procuring or obtaining any ticket, or tickets, or any form of transportation; and thirdly, inducing, or persuading or enticing them to come. I may say in that connection, that if it should appear from the testimony; that if you should be of the opinion from the testimony, that only one of these women is concerned with any of the offences charged against this defendant, that that would be sufficient to maintain the claim of the Government; that is to say, it is not necessary it should be proved beyond a reasonable doubt that the defendant was guilty of each one of these offences charged in the indictment with respect to the two, if you judge from the testimony that one of the women was the subject of what the defendant did with respect to what is charged in all of the

offences charged in the indictment, or with respect to only one, or only two of them." \* \* \*

I therefore respectfully submit that it was error in not giving the special charge requested, and owing to the manner in which the Court charged the jury in its general charge, as hereinbefore quoted, the defendant was prejudiced and it unquestionably led to her conviction, notwithstanding the total failure of proof as to the Parks woman which the trial court admits in the charge hereinbefore referred to.

### OPAL CLARK A PARTICEPS CRIMINIS AND ACCOMPLICE

The woman known as Opal Clark, prosecuting witness against Della Bennett, held the center of the stage throughout the trial of the Bennett case. A careful reading of her testimony will convince any unprejudiced mind that a lower, more depraved and degraded character than the Clark woman cannot be found anywhere; that she has associated with thieves and harlots for many years; that she has been an inmate of a resort where the panel game was worked and men were robbed; that she was addicted to the use of morphine and other dangerous drugs; that when she came to the City of Cincinnati, she, the said Clark woman, whose name as a matter of fact was Jeanette Laplante, induced and persuaded the Parks woman to come with her to Cincinnati; that from the testimony hereinbefore referred to, it is evident that the Parks woman was an utter stranger to Della Bennett: that there were absolutely no communications of any character between Bennett and Parks, and that therefore the only person who was guilty of a crime under the statute as against the Parks woman was Clark and not Della Bennett

The Clark woman is therefore a particeps criminis and an accomplice. She was not indicted for the crime, and a careful perusal of all of the testimony will establish the fact that the testimony given by the Clark woman against Della Bennett is not corroborated, and it was therefore the duty of the Court to charge the jury not to convict Bennett unless the testimony of the Clark woman was corroborated.

The Court in its general charge to the jury upon that subject, charged the jury on page 67, as follws:

"There is evidence tending to show that the woman Clark was directed to do certain things -was directed to do these things which are charged in each one of the counts of the indictment. Now if you should find that to be true from the testimony, then, I charge you that Opal Clark-with respect to Eva Parks, the other woman whose name is used in this indictment, was an accomplice of the defendant, that is to say, one who was accesory to the offence, either before or after the act and was a participant in the offence as charged. If you should find that that was so, then she was an accomplice—and under the definition of that term, gentlemen, I charge you that it is never safe to convict a person charged with a felony upon the uncorroborated testimony of an accomplice -necessarily, if you find that she was an accomplice with respect to these charges or any of them, you will necessarily then have to inquire into the facts as to whether or not there is corroborating testimony.

"There is evidence tending to corroborate her testimony and it is for you to consider its force and value and the weight to give to it."

I respectfully submit that the last paragraph of the charge given by the Court, to-wit, "There is evidence tending to corroborate her testimony" is erroneous, as the Court instructed the jury that there was corroborating evidence, when the Court should have charged the jury that it was for them to ascertain from the testimony whether or not there was corroborating testimony.

The Court does not in its charge discuss the evidence, and the jury took it for granted that there was corroborating testimony because the Court said so, and thereby Bennett was materially prejudiced.

"Syllabus 3. "A charge which magnifies and distorts the proving power of the facts on the subject of concealment, and makes the weight of the evidence depend on the manner in which it was done, and with the context of the charge, practically instructs that the facts were, under both divine and human law, conclusive proof of guilt—is erroneous.

"Syllabus 4. An instruction which is tantamount to saying to the jury that flight creates a legal presumption of guilt, so strong and so conclusive that it is their duty to act on it as an axiomatic truth, is erroneous, athough qualified by words that there may be exceptions to the rule."

-Hickory v. United States, 160 U. S., p. 408.— In the case of Reagan v. United States, 157 U. S., 299, Justice Brewer delivering the opinion of the Court on page 310, says:

"The court should be impartial between the government and the defendant. On behalf of the defendant it is its duty to caution the jury not to convict upon the uncorroborated testimony of an accomplice. Indeed, according to some authorities, it should peremptorily instruct that no verdict of guilty can be founded on such uncorroborated testimony, and this because the inducements \* \* \* to falsehood on the part of an accomplice are so great. And if any other witness for the government is disclosed to have great feeling or large interest against the defendant, the court may, in the interests of justice, call the attention of the jury to the extent of that feeling or interest as affecting his credibility."

In the case of Starr v. United States, 153 U. S., page 612, Syllabus 4 reads as follows:

"Expression of opinion by the court to the jury should be so guarded as to leave the jury free in the exercise of their own judgment."

Chief Justice Fuller, delivering the opinion of the Court on page 624 and 625, uses the following language:

"It is true that in the Federal courts the rule that obtains is similar to that in the English courts, and the presiding judge may, if in his discretion he thinks proper, sum up the facts to the jury; and if no rule of law is incorrectly stated, and the matters of fact are ultimately submitted to the determination of the jury, it has been held that an expression of opinion upon the facts is not reviewable on error. (Citing quotations). But he should take care to separate the law from the facts and to leave the latter in unequivocal terms to the judgment of the jury as their true and peculiar province. (Citing quotations). As the jurors are the triers of facts, expressions of opinion by the Court should be so guarded as to leave the jury free in the exercise of their own judgments."

Quoting again from the opinion of Chief Justice Fuller in said case on page 626:—

"It is obvious that under any system of jury trials, the influence of the trial judge on the jury is necessarily and properly of great weight, and that his lightest word or intimation is received with deference, and may prove controlling."

I therefore submit that the charge of the trial court on the subject of corroboration is prejudicial error.

#### CONCLUSION.

Under the statement of facts and law referred to in this brief, I respectfully submit that the conviction of the plaintiffs in error and petitioners should be set aside and held for naught.

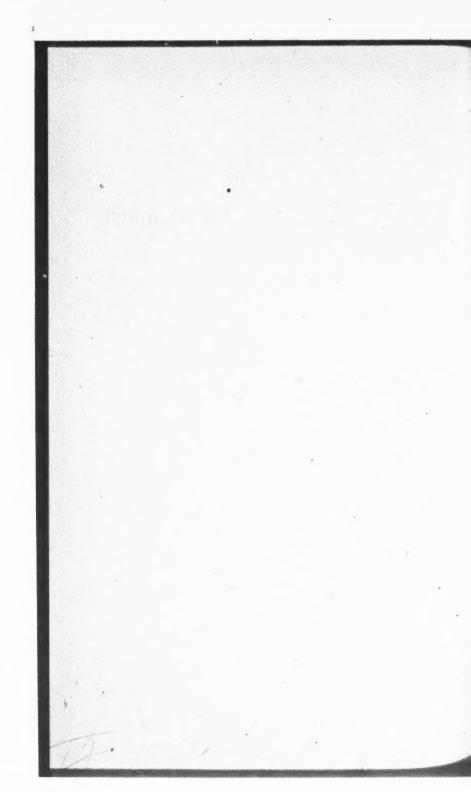
Respectfully submitted,

MAX LEVY,

Counsel for Emma Harris, alias Emma R. Smith and Bessie Green, Cause No. 602; and Della Bennett, Cause No. 603, Plaintiffs in Error and Petitioners.

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# Supreme Court of the United States

Emma Harris, alias Emma R. Smith and Bessie Green,

Plaintiffs in Error and Petitioners No. 602

---

The United States of America.

Della Bennett,

Plaintiff in Error and Petitioner

VS.

The United States of America.

No. 603

## Reply Brief of Plaintiffs in Error and Petitioners.

The Government, through the Assistant Attorney General, in its brief, cites the reasons for the enactment of the White Slave Traffic Act by reciting the history and purposes of said Act.

As was well said by a majority of the committees

who reported the Bill-

"It does not attempt to regulate the practice of voluntary prostitution, but aims absolutely to prevent panderers and procurers from compelling thousands of women and girls against their will and desire to enter and continue in a life of prostitution. \* \* \*

#### The committees further reported-

\* \* \* Investigations conducted by Government agents disclose the fact that a national and international traffic exists in the buying, selling and exploitation of women and young girls for immoral purposes. This traffic has come to be known the world over as "The White Slave Trade". It is referred to by the Paris Conference as "The Trade in White Women".

Said reports further refer to the fact that these women

\* \* \* are compelled to live a life of immorality by men who are in the business of producing women for that purpose—by men whose sole means of livelihood is the money received by the sale of exploitation of the women who are engaged in that unfortunate life \* \*

The Committees term "White Slaves" as

\* \* \* those women and girls who are liter.
..ally slaves \* \* \* those women who are owned and held as property, chattels—whose lives are lives of involuntary servitude."

I am in absolute sympathy with laws that would be enacted to stop such nefarious practices, as are detailed in the foregoing history, etc. However, a careful examination of the so-called "White Slave Statute" fails to discover how under Sections 2 and 3 of said Act such a practice can be broken up. No provision is found in these Sections for the punishment of panderers and procurers.

If it were the intention of the framers of the Act to protect the innocent and virtuous, they did not so say in said law, for a careful examination of the records in cases 602 and 603 conclusively shows that the women and girls who were transported, traveled

voluntarily, and had voluntarily engaged in the business of prostitution for many years, and that neither of the parties who were convicted for their transportation were in any way responsible for the life they were living.

The Assistant General in his brief on page 13, in the last paragraph, refers to cases 602 and 603 and very adroitly uses the expression that the women transported were practically "peons". That this is a most unwarranted statement can readily be seen by the reading of the testimony. These are Ohio cases, and the Statutes of Ohio distinctly make it an offense to retain the clothing or property of any inmate of a house of prostitution. (Sec. 13031-5, Revised Statutes of Ohio.)

Ohio has a similar White Slave Act to the one in question, which reads as follows:

#### WHITE SLAVE TRAFFIC-PENALTY.

Section 13031-6 "Any person who shall knowingly transport, or cause to be transported, or aid or assist in obtaining transportation for, by any means or conveyance, through or across this state, any female against her will for the purpose of prostitution, or with the intent or purpose to induce, entice or compel, any female to become a prostitute, shall be guilty of a felony and upon conviction thereof be imprisoned in the penitentiary not less than three years nor more than ten years. Any person who shall commit the crime in this Section mentioned may be prosecuted, indicted, tried and convicted in any county or city in or through which he shall so transport or attempt to transport any female as aforesaid."

That panderers and procurers are severely punished under the laws of Ohio can be seen by reading the following Section:

#### PANDERING DEFINED-PENALTY.

Section 13031-1 "Any person who takes places, harbors, inveigles, entices, persuades, encourages, either by threats, or promises, or by any device or scheme, takes or places or causes to be taken or placed, any female into a house of ill-fame or of assignation or elsewhere, against her will, for the purpose of prostitution or illegal sexual intercourse, or takes or detains a female unlawfully against her will with the intent to compel her by force, threats, persuasion, menace or duress to marry him or marry any other person or to be defiled, or any person who being parent, guardian, or having legal charge of the person of a female, consents to her taking or detention by any person for the purpose of prostitution or illegal sexual intercourse, shall be guilty of pandering, and upon conviction shall be punished by imprisonment in the penitentiary for a term of not less than two nor more than twelve years and fined not more than \$5,000."

Section 13031-2. "Any person who shall place any female against her will in the charge or custody of any person or persons for immoral purposes or in a house of prostitution with the intent that she shall live a life of prostitution, or any person who shall compel any female to reside with him or with any other person for immoral purposes, or for the purpose of prostitution, or compel her to live a life of prostitution, is guilty of pandering, and upon conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than ten years, and be fined not more than \$1,000."

Section 13031-3. "Any person who shall receive any money or other valuable thing for or on account of procuring for or placing in a house of prostitution or elsewhere any female against her will for the purpose of causing her to co-habit with any male person or persons, shall be guilty

of a felony and upon conviction thereof shall be imprisoned in the penitentiary not less than three

nor more than ten years."

Section 13031-4 "Any person who by force, fraud, intimidation or threats, places or leaves, or procures any other person or persons to place or leave his wife in a house of prostitution, or to lead a life of prostitution, shall be guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary not less than three nor more than ten years."

Section 13031-5. "Any person or persons who attempts to detain any girl or woman in a disorderly house or house of prostitution because of debt or debts she has contracted, while living in said house, shall be guilty of a felony and upon conviction thereof shall be imprisoned in the penitentiary not less than three nor more

than ten years."

The above laws of Ohio are quoted in detail in order to show that the police powers of the state, especially Ohio, (and I am reliably informed nearly every other state in the Union has similar laws) are ample and sufficient to protect all females against the rascality of panderers and procurers, and that it is unnecessary for Congress to aid the police powers of the state.

#### NOT NECESSARY TO AID STATES.

The Government in its brief on page 23, paragraph 2, says:

"The Act is not an encroachment upon the police powers of the states. It merely aids the states in the enforcement of their own laws on the subject of immorality, prohibiting that which the state can reach, if at all, only in part, for while the state might prohibit immoral practice within its limits, its power to prevent the introduction of immoral persons is limited."

It can therefore be readily seen from the citation of the Ohio Satutes that the State of Ohio is competent to take care of its citizens, and that the expression of the Government that the prosecuting witnesses in cases 602 and 603 were "peons" is not borne out by the facts, because peonage is impossible under the laws of Ohio, especially under Section 13031-5, hereinbefore cited.

#### PEONAGE-DEFINED.

I respectfully call the court's attention to the definition of "peonage." In the case of United States v. Clement, 171 Federal Reporter, page 974, it is defined as "the holding of persons in unwilling servitude in the payment of debts, by means of force and intimidation."

In the case of Bailey v. The State of Alabama, 219 U. S., page 219, this Court defined a "peon" as "one who is compelled to work for his creditor until

his debt is paid".

"Peonage" is defined by Webster as "a form of

serfdom".

As was pointed out in the oral arguments, the offense consists in entertaining "lascivious thoughts." "Mere conversations" although held within the confines of state limits are punishable under this Act.

The Government in its brief on page 16, states

several propositions—

First—The Transportation and Transit of Persons is Commerce.

#### ANSWER TO THE FIRST PROPOSITION.

I agree with the Government that the business of transporting persons interstate is commerce to the extent that he who engages in such a vocation for commercial purposes comes under interstate commerce regulations.

Second—The Government lays down a second proposition to the effect:

"That a regulative power of Congress extends to the absolute prohibiting of the transportation and transit in interstate or foreign commerce of certain subjects of commerce."

#### ANSWER TO THE SECOND PROPOSITION.

I agree that Congress has the right to prohibit the transportation and transit in interstate or foreign commerce of certain subjects of commerce. In using the words "certain subjects of commerce," I am merely repeating the language of the Government. This Court has held repeatedly that the true test as to whether or not the subject, article or commodity comes under interstate commerce regulation is whether or not the subject, article or commodity is merchantable, whether it has a money value, or whether it is subject to barter or trade.

Most emphatically do I deny, however, that the mere aiding of a person, such as the procuring of a railroad ticket, or the lending of money to a traveler with which to purchase a ticket, (which is a mere incident) comes under interstate commerce regulations, for as was well said by Mr. Justice White in the case of Hooper v. California, 15 Supreme Court

Reports-

"If the power to regulate interstate commerce applied to all the incidents to which such commerce might give rise and to all contracts which might be made in the course of its transaction, that power would embrace the entire sphere of mercantile activity in any way connected with trade between the States, and would exclude State control over many contracts purely domestic in their nature." The Government submits as a fourth proposition the following:

"Having the power to prohibit the transportation of women and girls in interstate and foreign commerce for immoral purposes, and having exercised such power, Congress may make the prohibiting effectual by punishing any person who knowingly induces, solicits or facilitates such illegal transportation."

#### RESPONSE TO THE ABOVE PROPOSITION.

What the distinguished Assistant Attorney General had in mind in the paragraph just quoted was that—

"When Congress enacts a law which it has the power to enact under any clause of the Constitution, it also has all necessary incidental power to make the act enacted effectual."

Let us apply the principle just stated to the Act in question. If Congress had the power to prohibit a woman from traveling from one state to another for the purpose of prostitution, and in pursuance of such power enact a law prohibiting women from traveling from state to state for the purpose of prostitution, the claim might then be made by the Government that Congress likewise had under its incidental power the right to punish persons aiding said women traveling from state to state for immoral purposes in order to make the law by it enacted effectual. As a matter of fact, as will be observed from the mere reading of the Act in question, Congress did not in this Act, or in any other act, prohibit women from traveling from state to state for the purpose of prostitution. and not having done so, Congress has no incidental power to punish a person who merely procures transportation for a woman traveling from state to state,

to-wit, the lottery cases, etc., are fully answered in the original brief filed by plaintiffs in error, and need not be further discussed.

If the Statute in question is held constitutional, Congress could open up a wide field of legislation, which would result in curtailing the liberties of the citizens of this country to an extent undreamed of.

It would be possible for Congress to enact a law prohibiting the traveling by persons into sister states for the purpose of committing, in the language of Justice Pitney, "malicious mischief" therein. Congress could prohibit persons from entering sister states if such persons intended to violate a law therein. Thus, as pointed out in the oral argument, if such a law were enacted, and it would be valid, (if the socalled White Slave Law is constitutional) a person could be sent to the penitentiary if he came into a state for the purpose of delivering an address upon a street corner without first having obtained the permission of the local authorities, which in many localities is a crime, and as was pointed out by Justice Brewer in the Keller and Ullman cases, Congress could make it an offense punishable under the Federal laws for any citizen to agree to commit an offense with a person who is forbidden to travel under the Federal laws, regardless where such agreement may have been made; that Congress could enact laws making it offenses and punished by the Federal authorities to do numerous things which are lawful in the states where such persons are domiciled, and which would be an infringement of the police powers of the states, and I respectfully call the Court's attention to the numerous authorities cited in my original brief on the subjects of constitutional liberty, social intercourse and police powers of the states. If the law in question is held by this Court to be valid. Congress will be enabled under the wide discretion it would then have, to legislate upon numerous subjects which would result in making this country as despotic as that of Russia.

The word "knowingly," in Sections 2 and 3 of the

Law in question, has relation only to the intent of the woman or girl to do the acts and things enumerated, and it is a travesty on legal procedure to hold that interstate commerce might be lawful or unlawful, according to the intent of the party paying the fare, or the party receiving it, and if such a rule were held, it would seem proper to fix some limit as to the degree of the offense; because it must be recognized that there are different degrees in chastity and morality, and this Statute does not attempt to discriminate between the grades of morality as a basis for the privi-

lege of using the interstate carrier, etc.

What, therefore, would be the duty of the person selling the ticket, or other evidence of the right to travel, and what would be the duty of the conductor of the train upon which such a female might be riding? Is he to inquire into the moral character of the females who ride on the train? The mere thought of such a condition is repulsive. In the first place the traveling of females upon a railroad is not interstate commerce, neither is the purchase of a ticket for such a female by a person who does not accompany her interstate commerce, because it is not the purchaser of such tickets that transports the female—it is the public carrier.

The conductor would then have to inquire of the female transported as to her purpose and intent in traveling—he would have to ascertain if her purpose and intent were immoral. If he should so ascertain, what is his duty?—to compel her to leave the train he would suffer the penalties of trespass and the railroad company would be liable in damages. If he permits her to travel—he is subject to the penalties of the White Slave Statute. Is such a law reasonable, and does it come within the rule of "perfection of reason", which Blackstone defines law to mean?

Quoting, therefore, the words of Chief Justice Fuller, in the case of United States v. E. C. Knight & Co., 156 U. S., page 13—

"Acknowledged evils, however grave and urgent they may appear to be, had better be borne

than the risk be run, in the effort to suppress them, of more consequences by resort to expedients of even doubtful constitutionality."

As to the variance between the allegation and proof, and as to the errors occurring at the trial, same are fully recited in the original brief, and need not further be discussed.

I therefore respectfully submit that the Act in question is invalid and should be so declared by this

Court.

MAX LEVY.

Counsel for Emma Harris, alias Emma R. Smith, and Bessie Green, and Della Bennett, Plaintiff's in Error and Petitioners.

# Supreme Court of the United States

Emma Harris, alias Emma R. Smith, and Bessie Green,

Plaintiffs in Error, No. 1067.

VS

The United States of America, Defendant in Error.

Della Bennett,

Plaintiff in Error,

VS

No. 1068.

The United States of America, Defendant in Error.

On Writ of Error to the Circuit Court of Appeals for the Sixth Circuit.

BRIEF IN OPPOSITION TO MOTION TO DISMISS WRITS OF ERROR.

#### STATEMENT OF CASE.

His Honor, Justice Lurton, allowed plaintiffs in error to file petitions for writs of error, and the defendant in error has filed a motion to dismiss the writs of error on the theory that the decision of the Circuit Court of Appeals was final, and cite in support of said motion the opinion of this Court in the case of MacFadden v. United States. 213 U. S., 288. It is strongly urged by the Government that the fact that the plaintiffs in error were indicted and convicted for a violation of a criminal statute, and brought error proceedings to the Court of Appeals when they had the privilege of coming direct to this Court, of which privilege they did not avail themselves, that, therefore, they had lost their right to have this Court review the proceedings.

If the only question involved in this case were whether or not the plaintiffs in error were properly convicted under the rules of evidence under a *valid* criminal statute, then it would be conceded that the position taken by the Government was proper.

In this case, however, the validity of the White Slave Statute under which the plaintiffs in error were indicted and convicted, was attacked. The right of Congress to enact the statute in question, under the authority given it by virtue of the commerce clause of the Constitution, was questioned. It was expressly contended that Congress had no right under the Constitution of the United States to pass this statute, and an examination of the records in these cases will develope that from the beginning to the close of the cases, the constitutionality of the Act was attacked—by a motion to quash, demurrer and motion in arrest of judgment.

Does it not seem almost revolting to think that if this Court should find that the law in question is unconstitutional, that persons could be punished and sent to the Penitentiary because they had been convicted in the lower courts under an invalid and unconstitutional statute, when they did not come to this Court direct from the District Court, preferring to submit their cases to the Court of Appeals prior to having this Court pass upon the same, especially in view of the language of this Court in the case of Norton v. Shelby County, 118 U. S., 425, when it said:—

"An unconstitutional act is not a law. It is in legal contemplation as though it had never been passed."

# PERSONS ARE NOT SUBJECTS OF COMMERCE.

This Court has repeatedly held that-

"Persons are not subjects of commerce, and that the true test as to whether an article or thing is a proper subject of commerce and can be considered as a commercial article is whether the said article or thing is merchantable."

New York v. Miln, 11 Peters, 102;

Bowman v. Chicago & C. Railway Co., 125 U. S., 489;

License Cases, 5 How., p. 599.

Notwithstanding the decisions of this Court that persons are not subjects of commerce, Congress enacted a statute, by the terms of which it virtually overrules the opinion of this Court, and declares through

the White Slave Statute, attacked herein, that persons are subjects of commerce, and in defiance of all legal rights of persons, holds it to be a crime to assist another person to do a lawful act. In other words, by the very terms of the statute it is not criminal for women to travel from state to state for any purpose, but persons assisting such women in traveling in interstate commerce, which is not declared to be unlawful under said statute, become criminals.

The Government urges upon this Court the startling proposition which can be summarized as follows:

"Even though a criminal statute may be unconstitutional, that fact cannot be presented to this Court by a person aggrieved if they submitted the constitutionality of such an act to the Court of Appeals."

This Court has held that it has

\* \* jurisdiction on error where the case presents for determination the question of the validity of congressional legislation."

170 U. S., 45; 174 U. S., 1.

"The words "the validity of".....a statute, as used in the Act of March 3, 1885, refer only to the power of Congress to enact the statute as it is by its terms or is made by construction, and not a mere judicial construction, as contra distinguished from a denial of the legislative power.

Whenever the power to enact a statute as it is by its terms or is made to read by construction

is fairly open to denial, and denied, the validity of the statute is drawn in question."

-Baltimore & P. R. Co., v. Hopkins, 130 U. S., 210-

"A statute to recover the amount of a tax enacted under the War Revenue Act of June 13, 1898, and paid under protest, in which not only is the construction of that statute involved, but the rights of the parties depend upon the plaintiffs' own showing, upon the Constitutionality of such statute, and the construction or application of the Federal Constitution, is not one arising under the Revenue laws within the meaning of the Act of March 3, 1891. Section 6, which makes the judgment of the Circuit Court of Appeals in such cases final, and such judgment may, therefore, be brought to the Federal Supreme Court for review as of right."—Spreckles Sugar Refining Co. v. McLain, 192 U. S., 397.

It is contended, however, that Plaintiffs in error have no standing in this Court under the decision of MacFadden v. The United States, 213, U. S.. 288, in which case it was held that—

"When the jurisdiction of the District Court depended solely upon the fact that the case was one arising under the criminal laws is, by the very terms of the Act of March 3, 1891, Section 6, "final," and is not reviewable in the Federal Supreme Court, although constitutional rights were invoked by the accused, and the case might therefore under Section 5 of that Act, have been brought directly from the District Court to the Supreme Court."

An examination of the facts in that case are not at all analogous to this case.

In the MacFadden case, the trial judge was requested to rule that the statute under which the indictment was returned was unconstitutional.

- a. Because it abridged the freedom of the press.
- b. Because it was uncertain and created no general rule of conduct, and therefore the indictment was without due process of law.
- c. Because it was an ex post facto law.
- d. Because it delegated legislative power to the court or jury.

It is to be noted that the authority of Congress was not questioned to enact the statute in the MacFadden case; but in the cases at bar, however, the validity of the law itself is called into question. The power of Congress to pass the White Slavery Statute under the Constitution of the United States is questioned, and Justice Moody rendering the opinion in the MacFadden case, on page 296, says in reference to the Spreckles case, hereinbefore spoken of, quoted in said decision:—

"Here was a case, then, which, in one aspect of the jurisdiction, was reviewable by this court, and, in another aspect of the jurisdiction, was not reviewable here. The precise case had not arisen before, and the statute was silent upon it. It was held that the writ of error could be maintained, as the jurisdiction of the trial court did not depend solely upon grounds which, by the terms of the act. would have made the judgment

of the circuit court of appeals final, but depended also upon grounds which would have permitted a writ of error from this court to the circuit court of appeals. That this was the precise ground of the decision is clear from the whole trend of the reasoning and from the statement in the opinion, p. 410, that "the judgment of the circuit court of appeals is not final, within the meaning of the 6th section, in a case which, although arising under a law providing for internal revenue, and involving the construction of that law, is vet a case also involving, from the outset, from the plaintiff's showing, the construction or application of the Constitution, or the constitutionality of an act of Congress. The case decides nothing more than that, where the jurisdiction of the trial court is shown, by the plaintiff's statement first, a ground where the appellate jurisdiction of the circuit court of appeals was made final by the statute; and, second, a ground where the appellate jurisdiction of the circuit court of appeals was made by the statute reviewable in this court. the latter ground of jurisdiction would control. and the writ of error to the circuit court of appeals would lie."

It is therefore respectfully submitted to the Court that the motion to dismiss the writs of error should be overruled.

#### WRITS OF CERTIORARI APPLIED FOR.

Should this Court, however, be of the opinion that the plaintiffs in error have exhausted their remedy, and that the petitions for writs of error do not lie, we would respectfully urge that the petitions for writs of certiorari, applied or by the plaintiffs in error, should be granted, so that no injustice might be done, and the highest tribunal of the land be given the opportunity of passing on the constitutionality of the Statute in question.

Respectfully submitted,

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Counsel for Plaintiffs in Error.

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# In the Supreme Court of the United States.

OCTOBER TERM, 1911.

EMMA HARRIS, ALIAS EMMA R. SMITH, and Bessie Green, plaintiffs in error, v.

THE UNITED STATES.

DELLA BENNETT, PLAINTIFF IN ERROR,

v.

THE UNITED STATES.

ON WRITS OF ERROR TO THE CIRCUIT COURT OF APPEALS
FOR THE SIXTH CIRCUIT.

# MOTION TO DISMISS AND BRIEF IN SUPPORT THEREOF.

Comes now the Solicitor General, on behalf of the United States, and moves the court to dismiss the writs of error in each of the above-entitled cases.

#### STATEMENT.

Plaintiffs in error were indicted in the District Court of the United States for the Southern District of Ohio for violating sections 2 and 3 of the act of Congress, approved June 25, 1910, known as the White Slave Traffic Act (36 Stat., 825). They pleaded not guilty, but upon trial were convicted. Harris

was sentenced to a term of four years in the penitentiary, Green to a term of one year in the penitentiary, and Bennett to a term of eleven months in jail, and to pay the costs of prosecution.

The indictment in each case charged, in substance, that the defendant, or defendants, did knowingly and unlawfully cause to be transported, and did aid and assist in procuring the transportation of, in interstate commerce, certain women, for the purpose and with the intention that such women should engage in the practice of prostitution, and that they did knowingly and unlawfully persuade, induce, and entice such women to travel in interstate commerce for said purpose.

In each case the constitutionality of the White Slave Traffic Act was challenged by demurrer or motion in arrest of judgment, or both, and the action of the trial court in overruling these pleadings was assigned, among other errors, in the Circuit Court of Appeals. That court sustained the statute and affirmed the judgments of the trial court. Thereupon these writs of error were sued out.

#### ARGUMENT.

This court is without jurisdiction to review these cases upon writ of error. The act of March 3, 1891, section 6 (26 Stat., 828), provides that "the judgments or decrees of the Circuit Courts of Appeals shall be final in all cases in which the jurisdiction is dependent entirely upon the opposite parties to the suit or controversy, being aliens and citizens of the

United States or citizens of different States; also in all cases arising under the patent laws, under the revenue laws, and under the *criminal laws* and in admiralty cases." In all other cases there is a right of review by the Supreme Court if the matter in controversy exceeds one thousand dollars.

The question whether a writ of error will lie from this court to a Circuit Court of Appeals to review a case arising under the criminal laws of the United States was definitely determined in the negative in Macfadden v. United States (213 U. S., 288). That, like the present cases, was a prosecution for the violation of a statute of the United States, and it was sought to have the judgment of the Circuit Court of Appeals reviewed, upon a writ of error, on the ground that a constitutional question was involved; but the court said (pp. 296-297) that—

\* \* \* the only ground of jurisdiction of the District Court in the case at bar was that it was a case arising under the criminal laws. In such a case the statute makes the judgment of the Circuit Court of Appeals final, and it is no less final because the petitioner here might, if he had been so advised, originally have invoked directly, under section 5 of the act, the appellate jurisdiction of this court.

In that case the court made clear the test for determining whether a case is appealable to this court from a Circuit Court of Appeals. The test it said (p. 294) was "the sources of jurisdiction of the trial court." The judgment of the Circuit Court of Appeals is final if the jurisdiction of the trial court depends entirely

upon the character of the parties, as being citizens of different States, or upon the nature of the case, as arising under the patent, the revenue, or the criminal laws, or being an admiralty case. If the jurisdiction rests also upon any other ground, there is a right of appeal, provided the requisite amount is involved. The case of Spreckels Sugar Refining Co. v. McClain (192 U. S., 397, 408-9), the court said, was to be distinguished from the Macfadden case, because it appeared that in the former the jurisdiction of the trial court "was invoked upon two grounds; first, because it was a revenue case; and, second, because it arose under the Constitution and laws of the United States." (213 U. S., 295.)

In this case, as in the Macfadden case, the sole ground of the jurisdiction of the trial court was that it was a case arising under the criminal laws of the United States. There, as here, the claim was made that the statute under which the prosecution was instituted was unconstitutional. But in that case the court held that this was not sufficient to give it jurisdiction to review the judgment of the Circuit Court of Appeals, following, on this point, Cary Mfg. Co. v. Acme Flexible Clasp Co. (187 U. S., 427, 428), a case of criminal contempt, where it was said:

\* \* \* Although it is insisted that the judgment imposing the fine was a final judgment in a criminal matter, it is argued that it involved the denial of constitutional rights, and hence that this court has jurisdiction

under section five of that act; but it is settled that even if a party might be entitled to come directly to this court under that section, yet if he so not do so, and carries his case to the Circuit Court of Appeals, he must abide by the judgment of that court. (Robinson v. Caldwell, 165 U. S., 359; American Sugar Refining Co. v. New Orleans, 181 U. S., 277; Huguley Manufacturing Co. v. Galeton Cotton Mills, 184 U. S., 290; Ayres v. Polsdorfer, p. 585, post.)

The finality of judgments of the Circuit Courts of Appeals in criminal cases, although involving constitutional questions, is further emphasized by the fact that in such cases the jurisdictional amount necessary to authorize any appeal to this court is not involved. That a case not made final in the Circuit Court of Appeals must involve, in addition to the constitutional question, the necessary jurisdictional amount was recognized in Spreckels Sugar Refining Co. v. McClain, supra, as will appear from the following quotation from the opinion in that case (192 U. S., 408-9):

\* \* \* We lean to that interpretation of the act which enables the defeated party in such a case in the Circuit Court of Appeals to have, as of right, upon writ of error to that court, a reexamination here of the judgment (the requisite amount being involved) if the correctness of the judgment depends in whole or in part upon the application or construction of the Constitution, or upon the constitutionality of any act of Congress drawn in question. Cases not expressly made final can not be brought here unless they involve one thousand dollars besides costs. So section 6 of the act of March 3, 1891, provides, and the appellate jurisdiction of this court, it is well settled, is only such as is authorized by Congress. Assuming, therefore, that this case, for any reason, is not to be regarded as one expressly made final in the Circuit Court of Appeals, no appeal would lie because the requisite jurisdictional amount is not involved.

Respectfully submitted.

F. W. LEHMANN,

Solicitor General.

WILLIAM R. HARR,

Assistant Attorney General.

#### APPENDIX.

For the convenience of the court in considering this motion, the following parts of the transcript of the record in these cases, showing the questions raised, are printed, together with the opinion of the Circuit Court of Appeals in each case.

INDEX.—Case No. 1067.

#### Indictment\_\_\_ Arraignment, pleas of not guilty, and verdict\_ 12-13 13 Supplemental motion in arrest of judgment\_\_ 13 Order overruling motion in arrest of judgment\_ 14 Assignments of error\_\_\_\_\_Opinion of Circuit Court of Appeals\_\_\_\_\_ 15 21 INDEX.—Case No. 1068. Indictment\_\_\_\_\_ 24 28 Demurrer\_\_\_\_ Order overruling demurrer\_\_\_\_\_ 29 Arraignment and plea of not guilty\_\_\_\_\_ 30 Verdict and sentence\_\_\_\_\_ 30-31 Motion in arrest of judgment..... 31-32 Order overruling motion in arrest of judg-

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ment\_\_\_\_\_

Assignments of error\_\_\_\_\_

Opinion of Circuit Court of Appeals\_\_\_\_\_

[From the transcript of the record in case No. 1067 on the docket of this court.]

THE UNITED STATES OF AMERICA, Southern District of Ohio, Western Division. ss:

In the District Court of the United States, within and for the district and division aforesaid.

Present, the honorable Howard C. Hollister, judge.

Among the proceedings had were the following, to
wit:

THE UNITED STATES OF AMERICA,
v.
EMMA HARRIS, ALIAS EMMA R. SMITH,
and BESSIE GREEN.
Indictment.
No. 798.

Be it remembered that on the ninth day of February, in the year of our Lord, one thousand nine hundred and eleven, came the grand jurors of the United States, within and for the district and division aforesaid, and presented to the court their certain bill of indictment against the defendants herein, which said bill of indictment is clothed in the words and figures following, to wit:

Indictment.

THE UNITED STATES OF AMERICA,
Western Division of the
Southern District of Ohio, 8

Southern District of Ohio, 88:

In the District Court of the United States, within and for the Western Division of the Southern District of Ohio, in the Sixth Judicial Circuit, of the term of February, in the year of our Lord one thousand nine hundred and eleven.

1st count. Sec. 2, act of June 25, 1910, 36 Stat., 825; "White slave traffic act."

The grand jurors of the United States of America, duly empaneled, sworn and charged to inquire within and for the western division of said district, upon their oaths and affirmations, present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to wit, the eighth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for and in transporting in interstate commerce, to wit, from the city of Charleston, in the State of West Virginia, to and into the city of Cincinnati, in the county of Hamilton and State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, two certain women, to wit, Nellie Stover and Stella Larkins, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said Nellie Stover and Stella Larkins, would and should in said city of Cincinnati. State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2nd count. Sec. 2, act of June 25, 1910, 36 Stat.,

825: "White slave traffic act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to wit, the eighth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the

Circuit and Western Division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained. at the city of Charleston, in the State of West Virginia, two certain railroad passenger tickets from the Chesapeake & Ohio Railway Company, then and there a common carrier of passengers, engaged in interstate commerce, each of which said tickets was good for transportation for one person from said city of Charleston, West Virginia, to the city of Cincinnati, in the State of Ohio, upon and over the line and railroad route of the said railway company, with the purpose and intention that said tickets should be used by two certain women, to wit, Nellie Stover and Stella Larkins, in interstate commerce, to wit, in going from said city of Charleston, in the State of West Virginia, to said city of Cincinnati, in said State of Ohio, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to wit, Nellie Stover and Stella Larkins, would and should, in said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, whereby, and with the means and by the use of the said tickets, said Nellie Stover and Stella Larkins were then and there and thereupon carried and transported as passengers in interstate commerce, over and upon the railway route and line of said railway company, to wit, from said city of Charleston, in the State of West Virginia, to and into said city of Cincinnati, in the State of Ohio, and within the southern judicial district of said State of Ohio, and within the

jurisdiction of this court, for the purposes aforesaid, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

3rd count. Sec. 3, act of June 25, 1910, 36 Stat. 825; "White-slave traffic act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Emma Harris, alias Emma R. Smith, and Bessie Green, on or about, to wit, the eighth day of September, in the year one thousand nine hundred and ten. in the county of Hamilton, in the State of Ohio, in the circuit and western division of the district aforesaid, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded, induced and enticed, two certain women, to wit, Nellie Stover and Stella Larkins, to go from one place, to wit, the city of Charleston, in the State of West Virginia, to another place, to wit, the city of Cincinnati, in the State of Ohio, within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Emma Harris, alias Emma R. Smith, and said Bessie Green, and each of them, that each of said women, to wit Nellie Stover and Stella Larkins, would and should in the said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, with the consent of the said Nellie Stover and Stella Larkins; and did then and there and thereby knowingly cause and aid and assist in causing said women, to wit, Nellie Stover and Stella Larkins, to go and be carried and transported in interstate commerce, as passengers, upon and over the railway route and line of the Chesapeake & Ohio Railway Company, a common carrier engaged in interstate commerce, to wit, from the said city of Charleston, in the State of West Virginia, to and into the said city of Cincinnati, in the State of Ohio, for the purpose aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SHERMAN T. McPherson,
United States Attorney in and for the
Southern District of Ohio.

Entry-10-320.

And afterwards, to-wit: on the same day, an entry was made upon the journal of said court in said cause, which said entry is clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,

vs.

No. 798.

EMMA HARRIS, ALIAS EMMA R. SMITH, AND BESSIE GREEN, ETC.

This day this cause again came on to be heard, and came the defendants, Emma Harris, alias Emma R. Smith, and Bessie Green, pursuant to the tenor of their recognizance heretofore given herein, and by their attorneys, and came the district attorney on behalf of the United States, and having been arraigned at the bar of this court and said indictment read to them for plea say they are not guilty in manner and form as charged in said indictment, and for trial put themselves upon the country, and the district attorney doth the like:

Whereupon to try the issues joined a jury being called came to-wit: Enos Conrad, W. B. Eppert,

Monte Coffin, J. P. Frederick, John C. Williamson, L. D. Elliott, William G. McIntyre, Robert T. Skinner, G. W. Waxler, John Duis, Harry N. Dickensheets, and Henry W. Suemening, who were duly empaneled and sworn herein well and truly to try the issues joined; and having heard the testimony, the arguments of counsel, and the charge of the court, the jury retired to their room attended by an officer of this court to deliberate upon a verdict; and after due deliberation the said jury returned the following verdict, to-wit:

We, the jury herein do find the defendant Emma Harris, alias Emma R. Smith, guilty in manner and form as charged in the counts of said indictment. We further find the defendant Bessie Green guilty in manner and form as charged in the counts of said

indictment.

(Signed) Enos Conrad, Foreman.

To all of which the said defendants by their attorneys except and give notice of a motion for a new trial.

Thereupon the district attorney moving for sentence the court pronounced the following sentence, to-wit: That the said defendant Emma Harris, alias Emma R. Smith, be confined in the United States penitentiary at Leavenworth, Kansas, for a period of four years, and that she pay the costs of prosecution; that the said defendant Bessie Green be confined in the penitentiary at Leavenworth, Kansas, for a period of one year and that she pay the costs of prosecution.

Supplemental Motion in Arrest of Judgment.

And afterwards, to wit, on the same day, came the defendants, by their attorney, and filed in the clerk's office of the court aforesaid a certain supplemental

motion in this cause, which said supplemental motion is clothed in the words and figures following, to wit:

Supplemental Motion in Arrest of Judgment.

United States District Court, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF, vs.

EMMA HARRIS, ALIAS EMMA R. SMITH, AND BESSIE GREEN, DEFENDANTS.

Now comes the defendants, by leave of court first had and obtained and file this their supplemental motion in arrest of judgment in this cause, for the following reason, that the statutes which the defendants are charged with violating are unconstitutional.

MAX LEVY, Attorney for Defendants.

Entry-10-334.

And afterwards, to wit, on the same day, an order was made upon the journal of said court in said cause, which said order is clothed in the words and figures following, to wit:

Entry Overruling Motion in Arrest of Judgment and Supplemental Motion in Arrest of Judgment.

THE UNITED STATES OF AMERICA, plaintiff,

08.

No. 798.

EMMA R. HARRIS, ALIAS EMMA R. SMITH, and Bessie Green, defendants.

This cause came on to be heard upon the motion in arrest of judgment and supplemental motion in arrest of judgment, herein filed by the defendants, on the arguments of counsel; and the court, being fully advised in the premises, find that the said motion in

arrest of judgment and supplemental motion in arrest of judgment are not well taken, and overrules the same, to which ruling of the court defendants except.

# Assignment of Errors.

And afterwards, to wit, on the same day, the following assignment of errors was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

United States District Court, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF,

vs.

No. 798.

Emma Harris, alias Emma R. Smith, and Bessie Green, defendants.

## Assignment of Errors.

Now come Emma Harris, alias Emma R. Smith, and Bessie Green, defendants herein, by Max Levy, their attorney, and say that in the records and proceedings aforesaid there is manifest error, in this, to wit:

#### First.

The court erred in overruling the motion to quash the indictment, as appears of record herein, and to which counsel for defendants then and there excepted.

#### Second.

The court erred in overruling the demurrer, filed by the defendants herein, to which ruling counsel for defendants then and there excepted, as appears of record herein.

#### Third.

The court erred in overruling the motion of the defendants for a separate trial, to which ruling counsel for defendants then and there excepted, as appears on page 2 of the bill of exceptions.

#### Fourth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears

on page 10 of the bill of exceptions:

"What did she say?" (referring to the defendant, Emma Harris), and in overruling the defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

#### Fifth.

The court erred in refusing the motion of the defendants to strike out the following answer:

"She said it was a good place to make money."

Which answer was made in response to question "What did she say?" as appears on page 10 of the bill of exceptions, and to which ruling counsel for defendants then and there excepted.

## Sixth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears

on page 11 of the bill of exceptions:

"What else was said in that conversation?" and in overruling the defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

Seventh.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears at the bottom of page 12 and the top of page 13 of the bill of exceptions: "Now, what conversation, if any, did you have with Emma Harris about your trunk, and about the car fare that Bessie Green beught your ticket with to bring you from Charleston?" and in overruling defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

# Eighth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears

on page 13 of the bill of exceptions:

"Did she ever put it down on the book afterwards?" and in overruling defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

#### Ninth.

The court erred in overruling the motion made by defendants to strike out the following answer—
"Yes, sir"—in response to the following question—
"Did she ever put it down on the book afterwards?" as appears on page 13 of the bill of exceptions, and to which ruling of the court counsel for defendants then and there excepted.

# . Tenth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 13 of the bill of exceptions:

"What did you see in that book?" and in overruling defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

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#### Eleventh.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears at the bottom of page 13 of the bill of exceptions:

"Which railroad fare do you mean?" and in overruling defendants' objection thereto, and to which ruling counsel for defendants then and there excepted.

#### Twelfth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 14 of the bill of exceptions: "How much?" and to which ruling of the court counsel for defendants then and there excepted.

#### Thirteenth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 14 of the bill of exceptions:

"And how much of a debt was against you?" and to which ruling of the court counsel for defendants then and there excepted.

## Fourteenth.

The court erred in permitting the witness, Stella Larkins, to answer the following question, as appears on page 14 of the bill of exceptions:

"\$30.00 the expressage and \$5.05 railroad fare?" and to which ruling of the court counsel for defendants then and there excepted.

## Fifteenth.

The court erred in permitting the cards, marked "Exhibit A and Exhibit B" to be read in evidence, as appears on page 16 of the bill of exceptions, and in

overruling defendants' objection thereto, to which ruling of the court counsel for defendants then and there excepted.

Sixteenth.

The court erred in permitting the witness, Nellie Stover, to answer the following question, as appears on page 37 of the bill of exceptions:

"Give the substance of it, can you?" and in overruling the objection of the defendants, to which ruling counsel for defendants then and there excepted.

#### Seventeenth.

The court erred in permitting the witness, Nellie Stover, to answer the following question, as appears on page 38 of the bill of exceptions:

"And how much was the express, do you remember?" and in overruling the objection of the defendants, to which ruling counsel for defendants then and there excepted.

Eighteenth.

The court erred in permitting the witness, Nellie Stover, to answer the following question, as appears at the bottom of page 38 of the bill of exceptions:

"What, if any, conversation did you have with Miss Harris about the payment of these charges and expressage?" and in overruling defendants' objection thereto, to which ruling counsel for defendants then and there excepted.

## Nineteenth.

The court erred in overruling the motion of the defendants to strike out the following answer of the witness, Nellie Stover, as appears on page 39 of the bill of exceptions:

"Mrs. Harris always kept books with us and she put down everything; everything was put down,

about paying my trunk, the bill, and she put down about my fare, and I was to pay her," and to which ruling counsel for defendants then and there excepted.

#### Twentieth.

The verdict and judgment rendered herein is contrary to law.

Twenty-first.

The verdict and judgment rendered herein is contrary to law and not sustained by the evidence.

# Twenty-second.

The verdict does not establish the guilt of Emma Harris, alias Emma R. Smith, beyond a reasonable doubt.

# Twenty-third.

The verdict does not establish the guilt of Bessie Green beyond a reasonable doubt.

# Twenty-fourth.

The court erred in overruling the motion in arrest of judgment and supplemental motion in arrest of judgment, to which defendents excepted, as appears of record herein.

## Twenty-fifth.

For other reasons apparent upon the face of the record.

Wherefore defendants pray that said judgment of the district court may be reversed.

MAX Luvy, Attorney for Defendants.

# [Opinion of the Circuit Court of Appeals,]

United States Circuit Court of Appeals, Sixth Circuit.

EMMA HARRIS, ALIAS EMMA R. | Error to the Dis-SMITH AND BESSIE GREEN. PLAINTIFFS IN ERROR.

UNITED STATES OF AMERICA, DEFENDANT IN ERROR.

trict Court of the United States for the Southern District of Ohio.

· Submitted February 14, 1912. Decided March 5, 1912.

Before WARRINGTON, KNAPPEN, and DENISON, Circuit Judges.

DENISON, Circuit Judge:

The case presents no question not disposed of by our opinion in the accompanying case of Bennett vs. United States, save this: Was respondent Harris entitled to an instructed acquittal because of the failure of sufficient evidence to support a verdict of guilty?

In this case, two women came from Charleston, West Virginia, and entered and remained for a time in the house of prostitution kept by Harris, in Cincinnati. There is no direct evidence that she had anything to do with inducing or aiding them to come; and support for this conclusion is to be found only in the circumstances. The evidence tended to show that respondent Green, an inmate of the same house, went from Cincinnati to Covington, and then, after a couple of days, to Charleston, arriving there in the morning; that on the same afternoon she started back for Cincinnati; that she furnished money to pay transportation for the two Charleston women who came with her; that they all went together to the Harris house the next morning: that a day or two later, the trunks of the Charleston women followed them to the Harris house with C. O. D. charges, including bills due from them to the keeper of the Charleston house of the same kind where they had been living: that Harris paid these C. O. D. charges and charged the same on her book against the Charleston women; and that such book, when later exhibited to them, also contained the charge for their railroad tickets from Charleston. Inasmuch as there was nothing unlawful, under this statute, in receiving these women or advancing the charges on their baggage, conviction must rest upon the theory that respondent Green went to Charleston and advanced the railroad fare while acting as the agent for the respondent Harris. This is explicitly denied by respondent Green, as a witness. The circumstance that she went away and soon returned with the other women is consistent with this theory of guilt, but it is not seriously inconsistent with the theory that Green acted for herself only; and respondent's counsel therefore say that absolutely essential support for the verdict must be found, if at all, in the proof indicating that she charged this railroad fare against the Charleston women in her account with them: and further say that such evidence of this fact as appears in this case—the testimony of a witness with a grievance who claims to have seen the

entry in a book not otherwise shown to exist-is evidence so easily fabricated and so far relates to a fact which might be consistent with innocence, that a verdict based thereon should not be allowed to stand. This argument by respondents' counsel rests on a confusion between the fact and the evidence of that fact. The agency is the essential fact; the existence of the book entry is one item of evidence; and we do not feel at liberty to set aside the verdict in this case for this reason. We think the question whether, under all the evidence. Green was acting for Harris, was a question for the jury. The weakness of the proof of the book entry was to be considered in connection with all the circumstances, including Harris' occupation, the likelihood that she might desire and send for more inmates, the reasonableness of the story told by Green, and all the other surrounding facts. The keeper of such a resort who receives inmates, knowing that they have just come from another State and knowing the purpose for which they came, and who then advances them money incident to their journey, and who finds that a jury has concluded that she instigated the journey, can not say that the verdict is without support because the jury's conclusion is drawn from circumstances which in another environment, might not have led to the same inference. The probative force of such environment, as supporting or as contradicting the words of a witness, pertains to an issue of fact and not to one of law.

It follows that the conviction and sentence will be affirmed.

[From the transcript of the record in case No. 1068 on the decket of this court.]

THE UNITED STATES OF AMERICA, Southern District of Ohio, Western Division, ss:

In the District Court of the United States, within and for the District and Division aforesaid.

Present, the Honorable Howard C. Hollister, district judge.

Among the proceedings had were the following,

to wit:

THE UNITED STATES OF AMERICA, Criminal vs.

DELLA BENNETT.

Indictment.

Be it remembered that on the 9th day of February, in the year of our Lord one thousand nine hundred and eleven, came the grand jurors of the United States of America, duly empaneled within and for the district and division aforesaid, and presented their certain bill of indictment, which said bill of indictment is clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,

Western Division of the Southern District of Ohio, ss: In the District Court of the United States, within and for the Western Division of the Southern District of Chio, in the Sixth Judicial Circuit, of the term of February, in the year of our Lord one thousand nine hundred and eleven.

(24)

1st Count. Sec. 2, act of June 25, 1910, 36 Stat., 825, "White-slave traffic act."

The grand jurors of the United States of America, duly empaneled, sworn and charged to inquire within and for the western division of said district, upon their oaths and affirmations, present Della Bennett, on or about, to wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly cause to be transported, and did aid and assist in obtaining transportation for and in transporting in interstate commerce, to wit, from the city of Chicago, in the State of Illinois, to and into the city of Cincinnati, in the county of Hamilton and State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, two certain women, to wit, Opal Clark and Eva Parks, for the purpose of prostitution, to-wit, for and with the purpose and intention on the part of said Della Bennett that said Opal Clark and Eva Parks, and each of them, would and should in said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscrimate sexual intercourse with men for hire and gain, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

2nd Count. Sec. 2, act of June 25, 1910, 36 Stat., 825: "White-slave traffic act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Della Bennett, on or about, to wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the Western Division of the Southern District of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly procure and obtain, and cause to be procured and obtained, at the city of Chicago, in the State of Illinois, two certain railroad passenger tickets from the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, then and there a common carrier of passengers, engaged in interstate commerce; each of which said tickets was then and there good for transportation for one person from said city of Chicago, in the State of Illinois, to the city of Cincinnati, in the State of Ohio, upon and over the line and railroad route of said railway company, with the purpose and intention that said tickets should be used by two certain women, to wit, Opal Clark and Eva Parks, in interstate commerce, to wit, in going from said city of Chicago, in the State of Illinois, to said city of Cincinnati, in said State of Ohio, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Della Bennett that each of said women, to wit, Opal Clark and Eva Parks, would and should, in said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, whereby and with the means and by the use of said tickets said Opal Clark and said Eva Parks were then and there and thereupon carried and transported as passengers in interstate commerce, over and upon the railway route and line of said railway company, to wit, from said city of Chicago, in the State of Illinois, to and into said city of Cincinnati, in the State of Ohio, and within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

3rd Count. Sec. 3, act of June 25, 1910, 36 Stat. 825; "White-slave traffic act."

And the grand jurors aforesaid, upon their oaths and affirmations aforesaid, do further present that Della Bennett, on or about, to wit, the twenty-ninth day of September, in the year one thousand nine hundred and ten, in the county of Hamilton, in the State of Ohio, in the western division of the southern district of Ohio, and within the jurisdiction of this court, did then and there unlawfully and knowingly persuade, induce, entice, and cause to be persuaded, induced, and enticed, two certain women, to wit, Opal Clark and Eva Parks, to go from one place, to wit, the city of Chicago, in the State of Illinois, to another place, to wit, the city of Cincinnati, in the State of Ohio. within the southern judicial district of said State of Ohio, and within the jurisdiction of this court, in interstate commerce, for the purpose of prostitution, to wit, for and with the purpose and intention on the part of said Della Bennett, that each of said women, to wit, Opal Clark and Eva Parks, would and should, in the said city of Cincinnati, State of Ohio, engage in the acts and practice of offering and submitting her body to common, illicit, and indiscriminate sexual intercourse with men for hire and gain, with the consent of said Opal Clark and Eva Parks; and did then and there and thereby knowingly cause and aid and assist in causing said women, to wit, Opal Clark and Eva Parks, to go and be carried and transported in interstate commerce, as passengers, upon and over the railway route and line of The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, a common carrier engaged in interstate commerce, to wit, from the said city of Chicago, in the State of Illinois, to and into the said city of Cincinnati, in the State of Ohio, for the purposes aforesaid; contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SHERMAN T. McPherson, United States Attorney, S. D. O.

The following endorsement appears on the back of said indictment:

A true bill.

WM. H. DAVIS, Foreman.

#### Demurrer.

And afterwards, to-wit, on the same day, the following demurrer was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

UNITED STATES DISTRICT COURT, Southern District of Ohio, Western Division:

THE UNITED STATES OF AMERICA, PLAINtiff,
v.

DELLA BENNETT, DEFENDANT.

#### Demurrer.

Now comes Della Bennett, defendant herein, and demurs to each of the three counts in the indictment,

separately and jointly, for the following reasons, to wit:

First. Because the facts stated therein do not constitute an offense punishable under the laws of the United States.

Second. Because the act of June 25, 1910, 36th Statute, 825, known as the "White slave traffic act," for the violation of the provisions of which statute the indictment against this defendant is based, is unconstitutional and void.

Third. Because each of said counts in the indictment charges this defendant with more than one offense.

Fourth. Because the intent is not alleged in the various counts in the indictment, proof of such intent being necessary to make out the offenses charged.

MAX LEVY, Attorney for Defendants.

## Entry 10-317.

And afterwards, to-wit: on the same day, an entry was made upon the journal of said court, in said cause, which said entry is clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA, plaintiff,

vs.

No. 797.

DELLA BENNETT, DEFENDANT.

# Entry Overruling Demurrer.

This day this cause came on for hearing upon the demurrer of the defendant to the indictment heretofore found herein, and was argued by counsel and submitted to the court, and upon consideration, the court finds that the demurrer is not well taken, and does overrule the same, to which finding and overruling the defendant through her counsel excepts.

### Entry 10-324.

And afterwards, to-wit: on the 20th day of February, A. D. 1911, an order was made upon the journal of said court in said cause, which said order is clothed in the words and figures following, to-wit:

The United States of America,
vs.
Della Bennett.

This day this cause came on to be heard and came the defendant pursuant to the tenor of her recognizance as heretofore given, and by her attorneys, and came the district attorney on behalf of the United States; and the said defendant, Della Bennett having been arraigned and said indictment read to her for plea says she is not guilty in manner and form as c¹ arged in said indictment for trial puts herself upon the country and the district attorney doth the like.

Whereupon to try the issues joined a jury being called came, to-wit: Oliver Keller, James V. Bonnell, Kemp Coffee, Monte Coffin, James W. Pierce, C. F. Faris, David Mote, Albert Thomas, W. S. Anderson, Charles Street, John Duis, Harry W. Dickensheets, who were duly empaneled and sworn herein well and truly to try the issues joined; and having heard the testimony, the arguments of counsel and the charge of the court, the said jury retired to their room attended by an officer of this court to deliberate upon a verdict. And after due deliberation the said jury returned the following verdict, to-wit: We, the jury herein do find the defendant, Della Bennett, guilty in

manner and form as charged in the three counts of said indictment.

(Signed) DAVID MOTE, Foreman.

To all of which the said defendant by her counsel excepts, and gives notice of a motion for a new trial.

Whereupon the district attorney moving for sentence the court, the court, after due consideration deferred sentence until Thursday morning, February 23rd, at ten o'clock, at which time the said defendant is ordered to be present.

#### Order 10-326.

And afterwards, to-wit: on the 23rd day of February, A. D. 1911, an order was made upon the Journal of said court in said cause, which said order is clothed in the words and figures following, to-wit:

THE UNITED STATES OF AMERICA,
vs.
DELLA BENNETT.

This day this cause came on to be heard, and came the said defendant, Della Bennett, pursuant to the tenor of her recognizance, and the district attorney on behalf of the United States;

Thereupon the district attorney moving for sentence the court pronounced the following sentence to-wit: That the said defendant, Della Bennett, be confined in the county jail of Miami County, Ohio, for a period of eleven months, and that she pay the costs of prosecution.

#### Motion.

And afterwards, to-wit: on the same day, came the defendant, by her attorney and filed in the clerk's office of the court aforesaid, a certain motion in arrest

of judgment, clothed in the words and figures following, to-wit:

United States District Court, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, plaintiff,

No. 797.

DELLA BENNETT, DEFENDANT.

Motion in Arrest of Judgment.

Now comes the said Della Bennett, and moves the court to arrest judgment in this cause for the following causes, to-wit:

First. That the facts stated in the indictment do not constitute an offense against the laws of the United States of America.

Second. That the statutes which the defendant was charged with violating are unconstitutional.

Third. Because the intent charged against the defendant in each of the counts of the indictment is not a criminal intent.

MAX LEVY, Attorney for Defendant.

# Entry 10-327.

And afterwards, to wit, on the same day, an order was made upon the journal of said court in said cause, which said order is clothed in the words and figures following, to wit:

THE UNITED STATES OF AMERICA vs.

DELLA BENNETT.

Entry No. 797.

This cause coming on to be heard upon the motion in arrest of judgment, the court upon consideration

thereof, overrules the same, to which ruling the defendant excepts.

# Assignment of errors.

And afterwards, to wit, on the same day, the following assignment of errors was filed in the clerk's office of said court, clothed in the words and figures following, to wit:

United States District Court, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF, vs.

DELLA BENNETT, DEFENDANT.

# Assignment of errors.

Now comes Della Bennett, the defendant, by Max Levy, her attorney, and says that in the records and proceedings aforesaid there is manifest error, in this, to wit:

#### First.

The court erred in overruling the motion to quash the indictment, as appears of record herein, and to which counsel for defendant then and there excepted.

### Second.

The court erred in overruling the demurrer filed by the defendants herein, to which ruling counsel for defendant then and there excepted, as appears of record herein.

### Third.

The court erred in refusing to grant the motion of the defendant before the impaneling of the jury, that the United States of America be required to elect on which count of the indictment it would try the defendant, to which ruling the defendant, through her counsel, then and there excepted.

#### Fourth.

The court erred in permitting the envelope, marked "Exhibit No. 1," and first sheet of letter, marked "Exhibit No. 2," and the second sheet of letter, marked "Exhibit No. 2a," and the third sheet of the letter, marked "Exhibit No. 2b," as appears on pages 15 and 16 of the bill of exceptions, and in overruling defendant's objection thereto, to which ruling counsel for defendant then and there excepted, as appears of record herein.

#### Fifth.

The court erred in overruling the motion of the defendant to strike the letter, marked "Exhibit No. 1, No. 2, No. 2a, and 2b," from the record, as found on page 15 of the bill of exceptions, to which ruling of the court the defendant then and there excepted.

#### Sixth.

The court erred in permitting the envelope, marked "Exhibit No. 3," and the letter, first page of which is marked "Exhibit No. 3a," and second page marked "Exhibit No. 3b," as appears on pages 17 and 18 of the bill of exceptions, and in overruling defendant's objection to the introduction of the same, to which ruling counsel for defendant then and there excepted, as appears of record herein.

### Seventh.

The court erred in overruling the motion of the defendant to strike the letter marked "Exhibit No. 4, No. 4s, and No. 4b" from the record, as appears on

page 20 of the bill of exceptions, and to which ruling of the court counsel for defendant then and there excepted, as appears of record herein.

### Eighth.

The court erred in permitting the letter marked "Exhibit No. 5 and Exhibit No. 5a" to be read in evidence, and in overruling defendant's objection thereto, and to which ruling counsel for defendant then and there excepted, as appears of record herein on pages 20 and 21 of the bill of exceptions.

#### Ninth.

The court erred in permitting the witness, Opal Clark, to answer the following question, as appears

on page 24 of the bill of exceptions:

"What did you tell her in that letter?" and in overruling defendant's objection thereto, and to which ruling counsel for defendant then and there excepted, as appears of record herein.

#### Tenth.

The court erred in permitting the witness, Opal Clark, to answer the following question, as appears on the bottom of page 24 of the bill of exceptions:

"What did you say in that letter?" and in overruling defendant's objection thereto, and to which ruling counsel for defendant then and there excepted, as appears of record herein.

### Eleventh.

The court erred in permitting the witness, Opal Clark, to answer the following question, as appears on page 28 of the bill of exceptions:

"State whether or not any consideration was paid to you for receiving men, as you have described, at the house of Della Bennett, after you arrived at Cincinnati?" and in overruling defendant's objection thereto, to which ruling counsel for defendant then and there excepted, as appears of record herein.

### Twelfth.

The court erred in permitting the witness, Opal Clark, to answer the following question, as appears

on page 29 of the bill of exceptions:

"Now, what, if any, conversation did you have with Miss Bennett after your arrival here with reference to sending of tickets to Chicago?" and in overruling defendant's exception thereto, to which counsel for defendant then and there excepted, as appears of record herein.

#### Thirteenth.

The court erred in refusing the following question to be asked the witness, Opal Clark, on crossexamination, as appears on page 41 of the bill of

exceptions:

"Didn't you tell Louise Wilson that this George was sent to the penitentiary for violating the age-of-consent law of two little girls?" and to which ruling of the court counsel for defendant then and there excepted, as appears of record herein.

#### Fourteenth.

The court erred in permitting the witness, Opal Clark, to answer the following question, as appears

on page 49 of the bill of exceptions:

"Just read the message you have to yourself, and then just state whether you received such a message in Chicago?" and in overruling defendant's objection thereto, to which counsel for defendant then and there excepted, as appears of record herein.

### Fifteenth.

The court erred in overruling the motion of the defendant that the telegram, marked "Exhibit No.7", as appears at the bottom of page 49, and top of page 50 of the bill of exceptions, be stricken from the record, to which ruling of the court counsel for defendant then and there excepted, as appears of record herein.

#### Sixteenth.

The court erred in permitting the telegram, marked "Exhibit No. 8" to be read in evidence over the objection of the defendant, as appears at the bottom of page 50, and the top of page 51 of the bill of exceptions, to which ruling counsel for defendant then and there excepted.

Seventeenth.

The court erred in permitting the telegram, marked "Exhibit No. 9" to be read in evidence, as appears on page 51 of the bill of exceptions, over the objection of the defendant, and to which counsel for defendant then and there excepted, as appears of record herein.

# Eighteenth.

The court erred in overruling the motion of the defendant to have the telegram, marked "Exhibit No. 9" stricken from the record, and to which ruling counsel for defendant then and there excepted, as appears of record herein.

# Nineteenth.

The court erred in permitting the witness, Walter J. Wood, to answer the following question;

"Will you state what occurred in your office as between you and the person who signed the name there as depositor?" over the objection of the defendant, and to which counsel for defendant then and there excepted, as appears on page 68 of the bill of exceptions.

#### Twentieth.

The court erred in permitting the document, marked "Exhibit No. 10" to be read, as appears on pages 69 and 70 and 71 of the bill of exceptions, and in overruling defendant's objection thereto, and to which counsel for defendant then and there excepted, as appears on page 71 of the bill of exceptions.

### Twenty-first.

The court erred in overruling the motion of the defendant to strike from the record "Exhibit No. 10," as appears on page 71 of the bill of exceptions, to which counsel for defendant then and there excepted.

### Twenty-second.

The court erred in permitting the document to be read in evidence, as found on pages 73 and 74 of the bill of exceptions, and in overruling defendant's objection thereto, to which counsel for defendant then and there excepted.

### Twenty-third.

The court erred in overruling the motion of the defendant to strike said document from the record, as appears on page 74 of the bill of exceptions, to which ruling, counsel for defendant then and there excepted, as appears of record herein.

### Twenty-fourth.

The court erred in overruling the motion of the defendant, at the conclusion of the testimony of the plaintiff, to instruct the jury to return a verdict of not guilty against her on the second count of the indictment, and to which ruling counsel for defendant then and there excepted, as is found on page 76 of the bill of exceptions.

# Twenty-fifth.

The court erred in overruling the motion of counsel for defendant at the conclusion of the testimony of plaintiff, to instruct the jury to bring in the verdict of not guilty, for the following reasons:

(1) Because the law under which the defendant was

tried was unconstitutional;

(2) Because the testimony in the case showed that the tickets were used by one Opal Clark, when the entire transaction, if any, occurred, was between the defendant and Jeanette Clark.

to which ruling, counsel for defendant then and there excepted as appears on page 77 of the bill of exceptions.

### Twenty-sixth.

The court erred in refusing the following question to be asked the witness, Louise Wilson, as appears on

page 81 of the bill of exceptions:

"Did she ever, at any time, say to you that she (meaning Jeanette Clark) and Grace Parks came here by reason of any tickets that were sent to her by Della Bennett?" and to which ruling, counsel for defendant then and there excepted, and counsel for defendant then and there avowed that if the witness were per-

mitted to testify, she would testify that Jeanette Clark told her that she didn't come to Cincinnati from Chicago on tickets that were sent to her by Della Bennett.

### Twenty-seventh.

The court erred in refusing the following question to be asked the witness, Louise Wilson, as appears on

page 81 of the bill of exceptions:

"I will ask you to state to the jury whether or not you ever saw Jeanette Clark under the influence of dope?" and to which ruling counsel for defendant then and there excepted, and avowed that if the witness were permitted to answer she would answer in the affirmative.

# Twenty-eighth.

The court erred in refusing the following question to be asked the witness, Louise Wilson, as appears on

page 82 of the bill of exceptions:

"Please state the number of times you saw Jeanette Clark under the influence of dope." and to which ruling counsel for defendant then and there excepted, and avowed that if the witness were permitted to testify she would answer "Seven or eight times."

# Twenty-ninth.

The court erred in refusing the following question to be asked the witness, Louise Wilson, as found on

page 86 of the bill of exceptions:

"State whether or not, while Jeanette Clark was an inmate of the Harris home, whether or not she stole a pair of shoes?" to which ruling counsel for defendant then and there excepted, and avowed that if the witness were permitted to answer she would answer in the affirmative.

#### Thirtieth.

The court erred in refusing the following question to be asked the witness, Joy Handy, as appears on

page 94 of the bill of exceptions:

"I want you to state, Miss Handy, as to whether or not this Jeanette Clark had stolen any of your fancy work?" to which ruling counsel for defendant then and there excepted, and avowed that if the witness were permitted to answer she would answer in the affirmative.

# Thirty-first.

The court erred in refusing the following question to be put to the witness, Joy Handy, as appears on

page 94 of the bill of exceptions:

"I will ask you to state whether or not Jeanette Clark admitted to you that she smoked dope?" to which ruling counsel for defendant then and there excepted, and avowed that if the witness were permitted to testify she would answer in the affirmative.

# Thirty-second.

The court erred in refusing the following question to be asked the witness, Joy Handy, as appears on

page 94 of the bill of exceptions:

"I will ask you to state whether or not Jeanette Clark told you that she was going to the Alhambra Hotel in Chicago and meet men there and smoke dope with them?" to which ruling of the court counsel for defendant then and there excepted, and avowed that if the witness were permitted to testify she would answer in the affimative.

# Thirty-third.

The court erred in refusing to give to the jury, at the request of the defendant, the following special charge No. 3:

"The defendant in this case is charged in the first count of the indictment that she unlawfully and knowingly caused to be transported and aided and assisted in obtaining transportation for and in transporting in interstate commerce, to wit, from the city of Chicago, Illinois, to the city of Cincinnati, Ohio, for the purpose of prostitution, two women, to wit, Opal Clark and Eva Park. If the jury find from the testimony that the said two women, or either of them, to wit, Opal Clark and Eva Park, were not transported for the purpose of prostitution from Chicago to Cincinnati, then it is your duty to acquit the defendant on the first count of the indictment."

To the refusal of the court in giving the above special charge No. 3, counsel for defendant then and there excepted, as appears on page 99 of the bill of exceptions.

# Thirty-fourth.

The court erred in refusing to give special charge No. 4 to the jury, as requested by counsel for defendant, as follows:

"If the jury find from the testimony that either one of the women, to wit, Opal Clark or Eva Park, were not transported for the purpose of prostitution from Chicago, Illinois, to Cincinnati, Ohio, as is charged against the defendant in the first count of the indictment, it is your duty to acquit the defendant on said first count of the indictment."

To the refusal of the court in giving the said special charge No. 4, counsel for defendant then and there

excepted, as appears on page 99 of the bill of exceptions.

Thirty-fifth.

The court erred in refusing to give special charge No. 6 to the jury, as requested by counsel for defend-

ant, as follows:

"The defendant is charged in the third count of the indictment with unlawfully and knowingly persuading, inducing, enticing, and caused to be persuaded, induced, and enticed, two certain women, to wit, Opal Clark and Eva Park, to go from Chicago, Ill., to the city of Cincinnati, Ohio, in interstate commerce for the purpose of prostitution, and with the purpose and intention on the part of the defendant that each of said women, to wit, Opal Clark and Eva Park, should engage in the acts of prostitution in the city of Cincinnati. If the jury find from the testimony that the defendant did not persuade, induce, and entice, or cause to be persuaded, induced, and enticed, the two women mentioned, to wit, Opal Clark and Eva Park, to come from Chicago, Ill., to the city of Cincinnati, Ohio, for said unlawful purpose, it is your duty to acquit the defendant."

To the refusal of the court to give said special charge No. 6 to the jury, as requested, counsel for defendant then and there excepted, as appears of

record.

Thirty-sixth.

The court erred in refusing to give special charge No. 7, as requested by counsel for defendant, as follows:

"If the jury find from the testimony that only one woman was transported, or that the defendant was guilty of the acts charged in all three counts of the indictment against one woman who is mentioned in the indictment and not against both, it is your duty to acquit the defendant under all counts of the indictment."

To the refusal of the court to give said special charge No. 7, as requested, counsel for defendant then and there excepted, as appears of record.

### Thirty-seventh.

Misconduct on the part of the district attorney in using the following language to the jury in his argument, to which language counsel for defendant then and there excepted, as appears on page 102 of the bill of exceptions:

"And any man, or woman, although she has lived in a house of prostitution, can sometimes tell the truth; and when she does tell the truth, and when her testimony is corroborated by facts that are undisputed, then her testimony must be believed; but, gentlemen of the jury, you must remember in this case that the witness for the Government is no better or worse than most of the witnesses for the defendant, or the defendant. There is no difference."

### Thirty-eighth.

The court erred in charging the jury in its general charge, as follows:

"There is evidence tending to corroborate her testimony, and it is for you to consider its force and value and the weight to give to it."

To which charge counsel for defendant excepted in the presence of the jury, as appears of record herein.

# Thirty-ninth.

The court erred in charging the jury in its general

charge, as follows:

"It is within the province of the jury to convict upon uncorroborated testimony of an accomplice, but it is the duty of the court to charge the jury if the testimony of an accomplice is not corroborated, it is never safe to find the defendant guilty. But if the testimony is corroborated, then it is for the jury to say what weight should be given to it, how far it is corroborated, and how strong the corroboration is, in determining the question of the guilt of the defendant."

To which charge counsel for defendant excepted in the presence of the jury, as appears of record herein.

### Fortieth.

The court erred in its general charge to the jury, as follows:

"All three counts of the indictment charge offenses against the defendant with respect to two women, Opal Clark and Eva Park. There is no evidence tending to show that the defendant had anything to do with Eva Park with respect to inducing her of her own act—the defendant of her own act—inducing the woman Eva Park, or enticing, or persuading her to come to the city of Cincinnati, Ohio. I charge you, gentlemen, in that respect that the gravamen of the offenses charged against the defendant is, first, in causing to be transported women for the purposes alleged; secondly, of furnishing transportation-furnishing tickets in the language of the indictmentprocuring or obtaining any ticket or tickets, or any form of transportation; and thirdly, inducing, per-

suading, or enticing them to come. If you shall be of the opinion with respect to carrying these two women from Chicago to Cincinnati-I may say in that connection, that if it should appear from the testimony that only one of these women is concerned with any of the offenses charged against this defendant, that that would be sufficient to maintain the claim of the Government; that is to say, it is not necessary it should be proved beyond a reasonable doubt that the defendant was guilty of each one of these offenses charged in the indictment with respect to the two. If you judge from the testimony that one of the women was the subject of what the defendant did with respect to what is charged in all of the offenses charged in the indictment, or with respect to only one, or only two of them.

To which portion of the charge, counsel for defendant excepted in the presence of the jury.

# Forty-first.

The court erred in its general charge to the jury, as follows:

"There is evidence tending to show that the witness, Opal Clark, by her own evidence, went sometime by another name, and that neither of the names, either that of Opal Clark, or the other name, Jeanette Clark, was her right name, but it was something else, Jeanette Laplant or Laplace; but I charge you in that respect, gentlemen, that if you are satisfied from the evidence that Opal Clark charged in the indictment was one of the women concerned, and Jeanette Clark, or Jeanette Laplant, or Laplace, are one and the same person, that the indictment is sufficiently explicit upon that point."

Counsel for defendant excepted to that portion of the court's charge, herein mentioned, in the presence of the jury.

# Forty-second.

The court erred in overruling the motion in arrest of judgment, to which the defendant excepted, as appears of record herein.

# Forty-third.

The verdict and judgment rendered herein is contrary to law.

# Forty-fourth.

The verdict and judgment rendered herein is contrary to the law and not sustained by the evidence.

# Forty-fifth.

The verdict does not establish the guilt of the defendant beyond a reasonable doubt.

# Forty-sixth.

For other reasons apparent upon the face of the record.

Wherefore, defendant prays that said judgment of the District Court may be reversed.

Attorney for defendant.

United States Circuit Court of Appeals, Sixth Circuit.

DELLA BENNETT, PLAINTIFF Error to the Disin error, trict Court of the

vs.

United States of America, defendant in error. Error to the District Court of the United States for the Southern District of Ohio.

Submitted February 14, 1912.

Decided March -, 1912.

Before Warrington, Knappen, and Denison, Circuit Judges.

Respondent was, upon her plea of not guilty, convicted of violating the act of June 25, 1910, commonly known as the "white-slave act." The testimony indicated that she was the keeper of a house of prostitution in Cincinnati; that in the summer of 1910, a former inmate of her house, then known to her by the name of Jeanette Clark, was in a similar house in Chicago; that respondent sent to Jeanette Clark several letters and telegrams asking her to return and bring other girls with her; that finally respondent sent railroad tickets for this purpose, and Jeanette Clark and Eva Parks used the tickets to come from Chicago to Cincinnati, and entered and remained in the Bennett house. The errors assigned are upon the constitutionality of the law and upon some questions of evidence.

DENISON, Circuit Judge (after stating the facts as above):

It is clear that the power of Congress to pass this statute must be found in its power to regulate commerce. The arguments of counsel for plaintiff in error, as we understand them, are that commodities only, and not persons, can be the subject of commerce; that persons can not be prohibited from traveling from one State to another because of some intention they may have; that the woman herself is not by this act forbidden to travel, and it can not be a criminal act to aid an unforbidden act; and that the law is an invasion of the police powers of the States.

It can not now be doubted that transportation, of persons as well as of property, is commerce, and that Congress may regulate the interstate transportation of persons (Gloucester Ferry Co. vs. Pennsylvania, 114 U.S., 196, 203; Covington Bridge Co. vs. Kentucky, 154 U.S., 204, 217; see also the cases involving passenger

traffic under the interstate commerce acts).

It is also settled that the constitutional power to regulate includes the power to prohibit, in cases where such prohibition is in aid of the lawful protection of the public. (The Lottery Case, 188 U. S., 321, 354.)

We think it a mistake to assume that this statute does not prohibit, and so impliedly permits, the primary act and yet punishes as a crime a merely incidental wrong. The act does not undertake to prohibit the woman from traveling from one State to another of her own volition, and in the supposed exercise of her inherent personal rights, no matter what her purpose as to her future conduct may be. This conclusion is emphasized by observing that the woman traveling may be perfectly innocent of any intended immorality, and that the act can not be intended to interfere with liberty of travel by such person. The primary thing forbidden is the inducing of a person to come into the State, with unlawful purpose by the inducer and in aid of such unlawful

purpose, but without direct regard to the innate character or purpose of the person induced. It is this primary thing and the incidental transportation by the carrier which are forbidden and penalized.

We do not find in the statute either the purpose or the effect to interfere with the police powers of the State. The law is directed only against the inducing or performing of interstate transportation; and this entire subject matter is obviously not within the scope of the police power of any State; hence, its exercise can not be an invasion of such power. It may well be assumed that the laws of all States prohibit, as those of Ohio do, the various ultimate acts of immorality referred to in this statute, and it follows that the law in question is in aid of the complete and effective exercise by the States of their respective police powers: and is of the same class as many acts of Congress in recent years having the same general purpose (see enumeration of such acts in U.S. vs. Hoke, 187 Fed. Rep., 992, 1000, 1003).

We conclude that the act is not open to the constitutional objections presented.

Respondent urges that while she was indicted for causing the interstate transportation of Opal Clark, and it was not alleged that Opal Clark had, in fact or by repute, any other name, the evidence showed the transportation of a woman who was known to respondent as Jeanette Clark, and whose real name was wholly different. This is said to be a variance between allegation and proof; and we are cited to cases in textbooks and reports to the effect that the indictment should contain the true name of the individual affected by the criminal act. It is not necessary to review these cases. Some of them were decided under

tricter rules of pleading than this court has applied. The essential things involved are that the record should be in such shape as to protect the respondent against a second prosecution for what is really the same offense, and as fairly to inform respondent of the crime intended to be alleged. These considerations involve the question of the identity of the person named-either actual identity or identity as supposed by respondent. Whatever obstacles, if any, there might be in afterwards interpreting and applying the record of indictment and judgment by parol testimony, as must be and is done with reference to civil judgments, we find in this case that the bill of exceptions is now a part of the record as much as is the indictment or the judgment, and that by the whole record there clearly appears the entire identity of the person named in the indictment with the person whom respondent must have known to be the one intended to be named and with the person who was actually transported. This leaves no possible ground for prejudice resulting from the double variance between the name used in the indictment and the name known to respondent and the real name.

Respondent further urges that while the indictment charges the transporting of two persons for the purpose stated, the proof wholly failed as to one of them. This also amounts to a claim of variance between allegation and proof. If we accept the claim that the proof did so fail, still we should not think the variance fatal. The violation of the statute is complete if one person is transported, and the fact that two persons are named in the same count instead of basing a separate count upon the travel of each person should not be fatal to a conviction. It is true

that where two persons are named as the subject the offense, and it is proved as to one of them only there is a seeming variance, but it is really a failure of proof as to a thing which it was not necessary t allege. The only points here, which are of substance and not of form, are, as with reference to the last matter discussed, the question of misleading the respondent and the question of protection against a future proseoution. It is clear that respondent would not be misled unless there were two occasions so as to give rise to some ambiguity, and no such thing here appears. It is true also that as to the person concerning whom the proof failed, the record would show a conviction which was insofar really unauthorized, but the protection against a future prosecution would be just as perfect, and it can not be presumed that the action of the trial court, in possession of all the facts. would be prejudicially affected in the matter of sentence. In these respects, the case is within the rule that a general conviction and sentence upon several counts will not be disturbed because all but one of the counts are bad, provided the good counts supports the sentence (Claassen vs. U.S., 142 U.S. 140, 146) Hardesty vs. U. S., C. C. A. 6, 168 Fed. Rep. 25, 26). The judgment will be affirmed.

# HOKE AND ECONOMIDES v. UNITED STATES.

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ERROR TO THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF TEXAS.

No. 381. Argued January 7, 8, 1913.—Decided February 24, 1913.

The power given to Congress by the Constitution over interstate commerce is direct, without limitation and far reaching. Hipolite Egg Co. v. United States, 220 U. S. 45.

Commerce among the States consists of intercourse and traffic between their citizens and includes the transportation of persons as well as property.

#### Statement of the Case.

While our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction, we are one people and the powers reserved to the States and those conferred on the Nation are adapted to be exercised, whether independently or concurrently, to promote the general welfare, material and moral.

While women are not articles of merchandise, the power of Congress to regulate their transportation in interstate commerce is the same, and it may prohibit such transportation if for immoral purposes.

The right to be transported in interstate commerce is not a right to employ interstate transportation as a facility to do wrong, and Congress may prohibit such transportation to the extent of the White Slave Traffic Act of 1910.

Congress may adopt not only the necessary, but the convenient, means necessary to exercise its power over a subject completely within its power, and such means may have the quality of police regulations. Gloucester Ferry Co. v. Pennsylvania, 114 U. S. 196.

The White Slave Traffic Act of June 25, 1910, c. 395, 36 Stat. 825, is a legal exercise of the power of Congress under the commerce clause of the Constitution and does not abridge the privileges or immunities of citizens of the States or interfere with the reserved powers of the States, especially those in regard to regulation of immoralities of persons within their several jurisdictions.

A variance which is merely verbal as to the name of the railroad over which transportation was obtained in violation of the White Slave Traffic Act and which did not prejudice the defense, held in this

case not to be reversible error.

It is for the jury to determine the sufficiency of the evidence tending to show that defendants induced women to become passengers in interstate commerce in violation of the Act, and in this case it does not appear that their judgment was not justified.

One can violate the White Slave Traffic Act through a third party

acting for him.

Evidence of acts of defendants after the end of the journey held in this case to be admissible to show the action of defendants in inducing the transportation of women in interstate commerce in violation of the White Slave Traffic Act.

There was no error in the various instructions of the court in this case.

187 Fed. Rep. 992, affirmed.

THE facts, which involve the constitutionality under various provisions of the Federal Constitution of the act of June 25, 1910, prohibiting transportation in interstate and

foreign commerce of women and girls for immoral purposes, known as the White Slave Act, are stated in the opinion.

Mr. C. W. Howth, with whom Mr. Hal W. Greer, Mr. T. H. Bowers and Mr. C. C. Luzenberg were on the brief, for plaintiffs in error:

The act is contrary to and contravenes Art. IV, § 2, of the Constitution in this: That though they are generally and justly deemed immoral, yet prostitutes, both male and female, are citizens of their respective States, with all the "privileges and immunities" possessed by any other citizen; and one of their "privileges" is to travel interstate; and so long as this privilege exists as a lawful right, it is the "privilege" and lawful right of any other citizen to aid and assist, persuade and entice, them to take the journey, regardless of their motive or purpose and regardless of the motive and purpose of the one rendering the aid, as to what they shall do or intend to do at the end of their journey. Paul v. Virginia, 8 Wall. 168; United States v. Harris, 106 U. S. 629.

The right to travel interstate is a fundamental privilege and immunity of citizenship, regardless of moral or immoral intent of the traveler at the end of the journey.

The White Slave Act does not in itself attempt to define or make a crime of prostitution.

The act does not forbid the carriage interstate of prostitutes, even though they be known as such.

The act does not prohibit the carriage interstate of a woman or girl who intends to ply the avocation of prostitution at the end of her journey, if she furnishes her own money or means of transportation. This is because Congress realized that it did not have power to include that, either because it would abrogate Art. IV, § 2, or the reserved powers of the States individually.

Congress has no power to define and punish as a crime the acts of one who aids another to do a lawful thing.

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As to Economides it is presumed that the verdict of the jury will be held conclusive on the facts, and they are there-

fore stated as established.

Defendants although engaged in a very disreputable, but lawful, business, had the privilege and immunity as a citizen of a State, to argue with, persuade, and prevail, upon three other citizens of that State to go to a point in another State, he in no other respect rendering any actual aid or assistance.

In the absence of an allegation in the indictment that these women were being carried under duress, or against their wills, or in some other involuntary form, or by some fraudulent device were induced to go, they had these

rights:

They could have stopped off at any place in Louisiana where the train stopped and have thus broken the inter-

state feature of the indictment.

Even after reaching Beaumont and before going to the place of prostitution they could have purchased transportation and returned to Louisiana, or have gone to some other place than Beaumont.

After reaching their destination at Beaumont and before going into the house of prostitution, they could have hired out for domestic service, or changed their

occupation into some other than prostitution.

In either of these three events, the criminality of the acts charged in the indictment would have been completely

destroyed.

The act is void in that it conflicts with the reserved police powers of the States individually to regulate or prohibit prostitution or any other immoralities, of their citizens. Amendments IX and X of the Constitution; Keller v. United States, 213 U. S. 143; Fairbank v. United States, 181 U. S. 283; Barron v. Baltimore, 7 Pet. 243.

The Congress of these United States, as a legislative body, is one of limited powers prescribed by the Constitution, and can pass no valid enactment unless it comes strictly within some one or more of the provisions conferring the power; and all powers not so expressly granted to Congress, by the Constitution, were reserved to the States individually.

The act is unconstitutional in that it does not come within the terms of Art. I, § 8, subd. 2, relating to the power to regulate commerce among the States, or any other grant of power in this: that while the carrying of passengers interstate comes within the power to regulate commerce, the motive or intent of the passenger either before beginning the journey, or during, or after completing it, is not a matter of interstate commerce. Keller v. United States, 213 U. S. 143; Lottery Case, 188 U. S. 32; The Popper Case, 98 Fed. Rep. 423; Fairbank v. United States, 181 U. S. 283.

Prostitution is not a crime against the Federal Government as such except in Territories exclusively under Congressional control, but of the States individually.

In every offense save this one a conviction for crime must depend upon the intent to commit the crime; but here the intention is the crime where no real crime may in fact be committed.

In all other cases the shipment of the forbidden commodity interstate, as well as its receipt, constitutes the crime; but here though the aid of the passenger may be lawful, yet if the person giving it intends the recipient shall do an immoral thing at the end of her journey, whether she does it or not, makes the person rendering the aid a felon.

Congress has not the constitutional power to make prostitution a crime within the limits of any State.

The power to regulate interstate commerce does not confer upon Congress the power to regulate the morality or any other immorality (a phrase broad enough to reach drinking, gambling, exposure of person, fighting, lying,

#### 227 U.S. Argument for the United States.

profanity—in fact any frailty which the flesh is heir to) of citizens individually.

If so there is no such thing reserved to the States per se as police powers, for any other immorality is broad enough to cover every crime defined in the criminal codes and codes of criminal procedure in every State in the Union.

Where both the right to interstate carriage and the fact of carriage are lawful within themselves, there is nothing of "commerce between the States" which Congress can prohibit.

The defendants should have been acquitted on the merits.

# Mr. Assistant Attorney General Harr for the United

Section 8 of the act provides that it shall be known and referred to as the "White Slave Traffic Act," and the several provisions of the act show that its underlying purpose is the suppression of traffic in women and girls for immoral purposes so far as such traffic comes within the jurisdiction of Congress over interstate and foreign commerce. This purpose was also plainly stated by the committees of Congress in recommending the passage of the bill (H. Rept., No. 47, 61st Cong., 2d Sess.; S. Rept., No. 886, 61st Cong., 2d Sess.).

That the act is intended as a regulation of the transportation of persons as passengers appears from § 5, which provides that violations of §§ 2, 3 and 4 may be prosecuted in any district from, through or into which any such woman or girl may have been carried or transported as a passenger.

<sup>&</sup>lt;sup>1</sup> The brief of the Government is entitled not only in No. 381, but also in the other White Slave Traffic Cases argued simultaneously therewith, to wit, No. 588, Athanasaw v. United States, post, p. 326; No. 603, Bennett v. United States, post, p. 333; and No. 602, Harris v. United States, post, p. 340.

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The act reaches procurers and panderers and those engaged in conducting immoral houses, shows, etc., who, treating women and girls as subjects of barter and gain, transport or cause them to be transported, or facilitate their transportation, from one State to another, or to a foreign country, for immoral purposes. It does not penalize either the voluntary going or coming of women for the purpose of prostitution, nor the act of one who, for charitable or philanthropic reasons, extends aid to an unfortunate female by purchasing transportation for her. Nor would a common carrier or its agents be guilty of violating the act simply by transporting a woman or girl who may intend to engage in prostitution.

The act is constitutional as a regulation of interstate

and foreign commerce.

Transportation and transit of persons is commerce, persons being both the subject and the means of commercial intercourse.

The statement of Mr. Justice Barbour, in New York v. Miln, 11 Pet. 102, 136, that persons "are not the subject of commerce," has never received the sanction of the court, but has been expressly refuted. Passenger Cases, 7 How. 282, 429; Henderson v. New York, 92 U. S. 259; Mobile v. Kimball, 102 U. S. 691; Gloucester Ferry Co. v. Pennsylvania, 114 U. S. 196; Pickard v. Pullman Car Co., 117 U. S. 34; McCall v. California, 136 U. S. 104; Covington Bridge Co. v. Kentucky, 154 U. S. 204.

We are concerned here only with the matter of transportation, which, so far as interstate or foreign, is clearly traffic and subject to the regulative power of Congress; although the decisions of this court are also to the effect that transit of persons, interstate or foreign, is also within the jurisdiction of Congress.

The regulative power of Congress extends to the absolute prohibition of the transportation and transit in interstate or foreign commerce of certain subjects of commerce.

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See The Lottery Case, 188 U. S. 321, establishing the principle that it is equally within the power of Congress, in regulating interstate commerce, to protect the public morals as it is to protect the public health or the economic welfare of the people, and it is upon this principle that the White Slave Traffic Act rests.

Congress has also enacted quarantine legislation for the purpose of preventing persons from introducing contagious diseases into the United States from foreign countries or spreading the same from State to State, and its authority to do so has been repeatedly recognized by this court. Morgan v. Louisiana, 118 U. S. 455, 464; Louisiana v. Texas, 176 U. S. 1, 21; Compagnie Francaise, &c., v. Board of Health, 186 U. S. 380, 387, 389.

Necessarily, such legislation can only rest upon the theory that Congress can regulate the transportation and transit of persons in interstate or foreign commerce, to the extent of prohibition, if the public welfare demands it.

The transportation of women and girls for the purpose of prostitution or debauchery or other immoral purpose is one of the kinds of interstate or foreign commerce that may be suppressed by Congress.

The act is not an encroachment upon the police powers of the States. It merely aids the States in the enforcement of their own laws on the subject of immorality.

While the States alone can regulate the practice of prostitution therein, *Keller* v. *United States*, 213 U. S. 138, so far as it is conducted through the channels of interstate or foreign commerce, it becomes a matter of congressional regulation.

Even if the States may, under their police powers, prohibit prostitutes or other immoral persons from coming or being transported into their limits, that fact does not remove the subject from congressional control. See, as to quarantine laws, Compagnie Française v. Board of Health,

186 U. S. 387, 389; Reid v. Colorado, 187 U. S. 137; Lottery Case, 188 U. S. 358.

The act is not an unwarranted invasion of personal liberty. Addyston Pipe Co. v. United States, 175 U. S. 229; Lottery Case, supra; Reid v. Colorado, 187 U. S. 151.

Having the power to prohibit the transportation of women and girls in interstate and foreign commerce for immoral purposes, and having exercised such power, Congress may make the prohibition effectual by punishing any person who knowingly induces, solicits, or facilitates such illegal transportation.

As to the power of Congress effectively to regulate interstate commerce by reaching unlawful acts in their very inception, see *Hipolite Egg Co.* v. *United States*, 220 U. S. 45.

So, because the solicitation of interstate commerce is a matter of Federal regulation exclusively, the State cannot impose a license tax thereon. Robbins v. Shelby Taxing District, 120 U. S. 489; Asher v. Texas, 128 U. S. 129; McCall v. California, 136 U. S. 104.

The provision of the act with reference to persons purchasing tickets for women and girls for the purpose of being transported in interstate or foreign commerce for immoral purposes, and those relating to the persuasion, inducement, enticement, or coercion of women and girls to go and be transported in such commerce, are similar to the provisions in the immigration laws making it an offense to assist, encourage, or solicit the importation or migration of alien contract laborers, upheld in *United States* v. Craig, 28 Fed. Rep. 795.

Mr. JUSTICE MCKENNA delivered the opinion of the court.

Error to review a judgment of conviction under the act of Congress of June 25, 1910, entitled "An Act to

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further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes." 36 Stat. 825, c. 395. It is commonly known as the White Slave Act.

The constitutionality of the act was assailed by demurrer, and as its sufficiency otherwise was not questioned a brief summary of its allegations is all that is necessary.

The charge against Effie Hoke is that she "did, on the fourteenth day of November, A. D. 1910, in the City of New Orleans and State of Louisiana, unlawfully, feloniously and knowingly persuade, induce and entice one Annette Baden, alias Annette Hays, a woman, to go from New Orleans, a city in the State of Louisiana, to Beaumont, a city in the State of Texas, in interstate commerce for the purpose of prostitution," etc.

The charge against Basile Economides is that he "did unlawfully, feloniously and knowingly aid and assist the said Effie Hoke to persuade, induce and entice the said Annette Baden . . . to go in interstate commerce . . . for the purpose of prostitution," with the intent and purpose that the said woman "should engage in the practice of prostitution in the said city of Beau-

mont, Texas."

The second and third counts make the same charge against the defendants as to another woman, the one named in the third count being under eighteen years.

The demurrers were overruled and after trial the defendants were convicted and sentenced, each to two years imprisonment on each count. 187 Fed. Rep. 992.

The indictment was drawn under §§ 2, 3 and 4 of the act, which sections are as follows:

"Sec. 2. That any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, or in transporting, in interstate or foreign commerce, or in any Territory or in the District of Columbia, any woman or girl for the purpose of prosti-

tution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or who shall knowingly procure or obtain, or cause to be procured or obtained, or aid or assist in procuring or obtaining, any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in any Territory or the District of Columbia, in going to any place for the purpose of prostitution or debauchery. or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby such woman or girl shall be transported in interstate or foreign commerce, or in any Territory or the District of Columbia, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment of not more than five years, or by both such fine and imprisonment, in the discretion of the court."

Section 3 is directed against the persuasion, inducement and enticement of any woman or girl to go from one place to another in interstate or foreign commerce, whether with or without her consent, to engage in the practices and for the purposes stated in the first section, and provides that "any one who shall thereby knowingly cause or aid or assist in causing such woman or girl to go or to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or any Territory or the District of Columbia," shall be punished as prescribed in the first

section.

Section 4 makes criminal the pursuasion, inducement and enticement of a woman or girl under the age of eightOpinion of the Court.

een years from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia to engage in the immoral practices enumerated. The person guilty thereof and who shall in furtherance thereof knowingly induce or cause such woman or girl to be carried or transported as a passenger in interstate commerce shall be deemed guilty of a felony and on conviction the offender's punishment may be a fine of ten thousand dollars or imprisonment for ten years, or by both fine and imprisonment, in the discretion of the court.

The grounds of attack upon the constitutionality of the

statute are expressed by counsel as follows:

"1. Because it is contrary to and contravenes Art. IV, § 2, of the Constitution of the United States, which reads: 'The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.'

"2. Because it is contrary to and contravenes the fol-

lowing two amendments to the Constitution:

"Art. IX. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage

others retained by the people.

"Art. X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the

people.

"3. Because that clause of the Constitution which reserves to Congress the power (Art. I, Sec. 8, Subdiv. 2) 'To regulate Commerce with foreign Nations, and among the several States,' etc., is not broad enough to include the power to regulate prostitution or any other immorality of citizens of the several States as a condition precedent (or subsequent) to their right to travel interstate or to aid or assist another to so travel.

"4. Because the right and power to regulate and control prostitution, or any other immoralities of citizens, comes within the reserved police power of the several States,

and under the Constitution Congress cannot interfere therewith, either directly or indirectly, under the grant of power 'to regulate commerce between the States.'"

We shall discuss at length but one of these grounds; the others will be referred to incidentally. The power of Congress under the commerce clause of the Constitution is the ultimate determining question. If the statute be a valid exercise of that power, how it may affect persons or States is not material to be considered. It is the supreme law of the land and persons and States are subject to it.

Congress is given power "to regulate commerce with foreign nations and among the several States." The power is direct; there is no word of limitation in it, and its broad and universal scope has been so often declared as to make repetition unnecessary. And, besides, it has had so much illustration by cases that it would seem as if there could be no instance of its exercise that does not find an admitted example in some one of them. Experience, however, is the other way, and in almost every instance of the exercise of the power differences are asserted from previous exercises of it and made a ground of attack. The present case is an example.

Commerce among the States, we have said, consists of intercourse and traffic between their citizens, and includes the transportation of persons and property. There may be, therefore, a movement of persons as well as of property; that is, a person may move or be moved in interstate commerce. And the act under consideration was drawn in view of that possibility. What the act condemns is transportation obtained or aided or transportation induced in interstate commerce for the immoral purposes mentioned. But an objection is made and urged with earnestness. It is said that it is the right and privilege of a person to move between States and that such being the right, another cannot be made guilty of the crime of inducing or assisting or aiding in the exercise of it and "that the

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motive or intention of the passenger, either before beginning the journey, or during or after completing it, is not a matter of interstate commerce." The contentions confound things important to be distinguished. It urges a right exercised in morality to sustain a right to be exercised in immorality. It is the same right which attacked the law of Congress which prohibits the carrying of obscene literature and articles designed for indecent and immoral use from one State to another. Act of February 8. 1897, 29 Stat. 512, c. 172. United States v. Popper, 98 Fed. Rep. 423. It is the same right which was excluded as an element as affecting the constitutionality of the act for the suppression of lottery traffic through national and interstate commerce. Lottery Case, 188 U. S. 321. 357. It is the right given for beneficial exercise which is attempted to be perverted to and justify baneful exercise as in the instances stated and which finds further illustration in Reid v. Colorado, 187 U.S. 137. This constitutes the supreme fallacy of plaintiffs' error. It pervades and vitiates their contentions.

Plaintiffs in error admit that the States may control the immoralities of its citizens. Indeed, this is their chief insistence, and they especially condemn the act under review as a subterfuge and an attempt to interfere with the police power of the States to regulate the morals of their citizens and assert that it is in consequence an invasion of the reserved powers of the States. There is unquestionably a control in the States over the morals of their citizens, and, it may be admitted, it extends to making prostitution a crime. It is a control, however, which can be exercised only within the jurisdiction of the States, but there is a domain which the States cannot reach and over which Congress alone has power; and if such power be exerted to control what the States cannot it is an argument for-not against-its legality. Its exertion does not encroach upon the jurisdiction of the States. We have

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cited examples; others may be adduced. The Pure Food and Drugs Act (June 30, 1906, 34 Stat. 768, c. 3915) is a conspicuous instance. In all of the instances a clash of national legislation with the power of the States was urged, and in all rejected.

Our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction, as we have said, but it must be kept in mind that we are one people; and the powers reserved to the States and those conferred on the Nation are adapted to be exercised, whether independently or concurrently, to promote the general welfare, material and moral. This is the effect of the decisions, and surely if the facility of interstate transportation can be taken away from the demoralization of lotteries, the debasement of obscene literature, the contagion of diseased cattle or persons, the impurity of food and drugs, the like facility can be taken away from the systematic enticement to and the enslavement in prostitution and debauchery of women, and, more insistently, of girls.

This is the aim of the law expressed in broad generalization; and motives are made of determining consequence. Motives executed by actions may make it the concern of Government to exert its powers. Right purpose and fair trading need no restrictive regulation, but let them be transgressed and penalties and prohibitions must be applied. We may illustrate again by the Pure Food and Drugs Act. Let an article be debased by adulteration, let it be misrepresented by false branding, and Congress may exercise its prohibitive power. It may be that Congress could not prohibit the manufacture of the article in a State. It may be that Congress could not prohibit in all of its conditions its sale within a State. But Congress may prohibit its transportation between the States, and by that means defeat the motive and evils of its manufacture. How far-reaching are the power and the

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means which may be used to secure its complete exercise we have expressed in *Hipolite Egg Co. v. United States*, 220 U. S. 45. There, in emphasis of the purpose of the law, we denominated adulterated articles as "outlaws of commerce" and said that the confiscation of them enjoined by the law was appropriate to the right to bar them from interstate transportation and completed the purpose of the law by not merely preventing their physical movement but preventing trade in them between the States. It was urged in that case as it is urged here that the law was an invasion of the power of the States.

Of course it will be said that women are not articles of merchandise, but this does not affect the analogy of the cases; the substance of the congressional power is the same, only the manner of its exercise must be accommodated to the difference in its objects. It is misleading to say that men and women have rights. Their rights cannot fortify or sanction their wrongs; and if they employ interstate transportation as a facility of their wrongs, it may be forbidden to them to the extent of the act of June 25, 1910, and we need go no farther in the present case.

The principle established by the cases is the simple one, when rid of confusing and distracting considerations, that Congress has power over transportation "among the several States"; that the power is complete in itself, and that Congress, as an incident to it, may adopt not only means necessary but convenient to its exercise, and the means may have the quality of police regulations. Gloucester Ferry Co. v. Pennsylvania, 114 U. S. 196, 215; Cooley, Constitutional Limitations, 7th ed. 856. We have no hesitation, therefore, in pronouncing the act of June 25, 1910, a legal exercise of the power of Congress.

There are assignments of error based upon rulings on the admission and rejection of evidence and upon the instructions to the jury and the refusing of instructions. The asserted errors are set forth in twenty-five bills of exceptions and the special assignment of errors in this court occupy twenty-eight pages of the record, and present the constitutional objections to the law in all the aspects that counsels' ingenuity can devise. A like ingenuity has been exercised to represent the many ways in which the conduct of the accused can be viewed and shown to be inconsistent with a guilty purpose. To discuss them all is unnecessary. We shall pass more or less rapidly over those we consider to be worthy of attention.

1. It is contended that there is variance between the indictment and the proof in that the indictment charges that the women were transported over the Texas & New Orleans Railroad Company's road and that the Government failed to prove that such road was a line extending from New Orleans to Beaumont, Texas, these places marking the beginning and end of the transportation of the women. Further, that the proof showed that their tickets were purchased over the Southern Pacific Road. The indictment alleges that the Texas & New Orleans Railroad was a part of the Southern Pacific System, and was commonly known as the "Sunset Route," and there was through transportation. The variance is not much more than verbal, and that it prejudiced their defense in any way is not shown. If it is error at all it does not appear to have caused even embarrassment to the defense. But was it error? See Westmoreland v. United States, 155 U. S. 545, 549. Also § 1025, R. S.

2. The evidence does not show that the defendants or either of them induced, etc., the women to become passengers in interstate commerce. The particulars are recited wherein it is contended that the evidence is deficient. It is not necessary to review them. It was for the jury to consider and determine the sufficiency of the evidence, and we cannot say they were not justified by it in the judgment they pronounced.

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3. It is contended that Florence Baden persuaded her sister Gertrude to go to Beaumont and an instruction of the court is attacked on the ground that it declared the charge of the indictment was satisfied against the defendants if Florence acted for them. There was no error in the instruction under the circumstances shown by the record.

4. Error is assigned on the refusal of the court to give certain instructions requested by defendants. To consider them in detail would require a lengthy review of the evidence, for they present arguments on certain phases of it as to the degree of persuasion used or its sufficiency to induce or entice the women. There was no error in refus-

ing the instructions.

5. The court permitted the women to testify as to the acts of Effie Hoke at her house at Beaumont restraining the liberty of the women and coercing their stay with her. Such testimony was relevant. The acts illustrated and constituted a completion of what was done at New Orleans. They were part of the same scheme and made clear

its purpose.

There were other instructions asked by which the jury was charged that they could not convict Effie Hoke for the character of the house she kept or Economides for the business he conducted. The charge of the court sufficiently excluded both views. It explained the act of Congress and the offenses it condemned and directed the

attention of the jury to them.

6. Defendants complain that they were not permitted to show that the women named in the indictment were public prostitutes in New Orleans. Such proof they contend was relevant upon the charge of persuasion or enticement. This may be admitted, but there was sufficient evidence, as the court said, of the fact of the immorality of their lives and explicitly ruled that they could be shown to be public prostitutes. The court, however, excluded

certain details sought to be proved. Under the circumstances there was no error in the ruling.

In conclusion we say, after consideration of all errors assigned, that there was no ruling made which was prejudicial to defendants.

Judgment affirmed.

## ATHANASAW AND SAMPSON v. UNITED STATES.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA.

No. 588. Argued January 7, 8, 1913.—Decided February 24, 1913.

Hoke v. United States, ante, p. 308, followed to effect that the White Slave Traffic Act of June 25, 1910, is constitutional.

The White Slave Traffic Act of 1910 against inducing women and girls to enter upon a life of prostitution or debauchery covers acts which might ultimately lead to that phase of debauchery which consists in sexual actions; and in this case held that there was no error in refusing to charge that the gist of the offense is the intention of the person when the transportation is procured, or that the word "debauchery" as used in the statute means sexual intercourse or that the act does not extend to any vice or immorality other than that applicable to sexual actions.

THE facts, which involve the constitutionality and construction of the White Slave Act and validity of an indictment and conviction thereunder, are stated in the opinion.

Mr. W. A. Carter and John P. Wall filed a brief for plaintiffs in error:

The White Slave Act is unconstitutional, because it violates § 2, Art. IV, of the Constitution of the United

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States. Crandall v. State of Nevada, 6 Wall. 35; Joseph v. Randolph, 71 Alabama, 499; Paul v. Virginia, 8 Wall. 168; 2 Tucker on the Constitution, 256, 530, paragraph D; United States v. Harris, 106 U. S. 629.

Power to pass the White Slave Act is not granted to the Federal Congress by the commerce clause of the Constitution. See Tucker on the Constitution, p. 528.

The White Slave Act conflicts with the Ninth and Tenth Amendments to the Constitution and infringes on the reserved police powers of the State. City of New York v. Miln, 11 Pet. 102; Howard v. I. C. R. Co., 207 U. S. 463; Keller v. United States, 213 U. S. 138; Lottery Cases, 188 U. S. 22; State v. Ry. Co., 27 W. Va. 783.

In their decisions sustaining the act, the lower Federal courts in Bennett v. United States, 194 Fed. Rep. 630; Kalen v. United States, 196 Fed. Rep. 888; United States v. Westman, 182 Fed. Rep. 1017; United States v. Warner, 188 Fed. Rep. 682, have misconstrued the commerce

clause of the Constitution.

As to the errors assigned upon the charges given and refused by the court, see Anderson's Law Dict. 314; 1 Abbott's Law Dict. 348; 2 Lewis' Suth. Stat. Const., 2d ed., § 442.

Mr. Assistant Attorney General Harr for the United States.1

Mr. JUSTICE MCKENNA delivered the opinion of the court.

Indictment for violating the act of Congress of June 25, 1910, known as the White Slave Act. 36 Stat. 825, c. 395.

The charge is that the defendant transported or caused to be transported, or aided in the transportation of a girl

<sup>&</sup>lt;sup>1</sup> See abstract of argument for the United States in Hoke v. United States, ante, p. 313.

by the name of Agnes Couch from Atlanta, Georgia, to Tampa, Florida, for the purpose of debauchery.

A crime is variously charged against §§ 2 and 3 of the act in thirty-nine counts, alleging that the transportation was for "the purpose of debauchery" or "to give herself

up to debauchery."

A demurrer was filed to the indictment, alleging as grounds thereof the unconstitutionality of the act and that the indictment was insufficient in certain particulars of fact. The demurrer was overruled, and after a trial upon a plea of not guilty defendants were convicted. Defendant Athanasaw was sentenced to imprisonment for two years and six months and the defendant Sampson for one year and three months. The contentions of the defendants are that the act of Congress is unconstitutional and that errors were committed by the District Court in giving and refusing to give certain instructions to the jury.

1. This case was argued and submitted with No. 381, Hoke v. United States, ante, p. 308. The constitutionality of the law was sustained in that case, and further discus-

sion is unnecessary.

2. To understand the ruling of the court on the instructions an outline of the facts must be stated. Agnes Couch was a girl of seventeen years. She lived at Suwanee, Georgia; but, being in Atlanta in September, 1911, and seeing an advertisement by one Sam Massel for chorus girls, she applied at his office and signed a contract to appear with the Imperial Musical Comedy Company at the Imperial Theatre, Tampa, Florida, as a chorus girl at a salary of \$20 a week for the first four weeks and \$15 a week thereafter, she to room and board in the theatre. The theatre was operated by the defendants, and Massel acted as their booking representative at Atlanta. After she signed the contract Massel gave her a railroad ticket which had been provided by the defendants for that

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purpose. She arrived at Tampa about 6:30 a. m. and met the defendant Athanasaw at seven o'clock.

As to what then took place, the girl testified as follows: "He showed me my room, and took the check to get my trunk. I went to sleep and slept until 2 o'clock in the afternoon. At that hour one of the girls awoke me up to rehearse. I went down in the theatre and stayed there about an hour rehearsing, singing; and then went to lunch in the dining room. All of the girls were there, and several boys. I had never had any stage experience. At lunch they were all smoking, cursing, and using such language I couldn't eat. After lunch I went to my room, and about 6 o'clock Louis Athanasaw, one of the defendants, came and said to me I would like it all right; that I was good looking and would make a hit, and not to let any of the boys fool me, and not be any of the boys' girl; to be his. He wanted me to be his girl; to talk to the boys and make a hit, and get all of the money I could out of them. His room was next to mine, and he told me he was coming in my room that night and sleep with me; and he kissed and caressed me. He told me to dress for the show that night and come down into the boxes. I went into the box about 9 o'clock. About that time Louis Athanasaw's son knocked on my door and told me to come to the boxes. In the box where I went there were four boys; they were smoking, cursing, and drinking. I sat down and the boys asked me what was the matter, I looked scared. I told them I was ashamed of being in a place like that; and Arthur Schlemann, one of the boys, said he would take me out. The others insisted on my staying, and said I would like it when I got broke in. I tried to go out with Schlemann, but a boy named Gilbert pulled me back, saying 'Let that cheap guy alone.' Schlemann said he would send a policeman, and in about 15 minutes Mr. Thompson and Mr. Evans came in for me."

Athanasaw denied that he made improper proposals to the girl, and it was testified that at the preliminary hearing she did not charge him with such. In all else, however, her testimony was not contradicted and it was supported as to the character of the house and as to what took place.

Three propositions are presented by defendants: (1) The gist of the offense is the intention of the person when the transportation was procured or aided to be procured. (2) The word "debauchery" as used in the statute means sexual intercourse. (3) The act did not intend to prohibit the transportation of women for the purpose of any other vice or immorality than that applicable to sexual actions.

The instructions requested by the defendants presented these propositions, and by refusing them and giving others inconsistent with them it is contended that the court erred. The ruling of the court is sufficiently exhibited by the instructions which it gave, and they can be made the basis as well of a consideration of the errors assigned by the refusal of the instructions requested by defendants. The instructions given by the court are as follows:

"The intent and purpose of the defendants at the time of the furnishing of this transportation for Agnes Couch is the very gist and question of this case. Did they intend to induce or entice or influence her to give herself up to debauchery? It makes no difference whether the profits which would be made by the defendants came from the sale of liquor or other immoral purpose. The question here is of intent; what was the intent with which they brought her; that she should live an honest, moral and proper life? or that she came and they engaged and contracted with her for the purpose of her entering upon a condition which might be termed debauchery, or tends to or would necessarily and naturally lead her to a condition of debauchery just referred to?

"The term debauchery is not a legal or technical term. There is no allegation that the defendants brought her

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here with the purpose or with the intent to debauch her; but to induce her or entice her, or influence her to enter upon a course of debauchery. The term debauchery is not a legal or technical term. To debauch is to corrupt in morals or principles; to lead astray morally into dishonest and vicious practices; to corrupt; to lead into unchastity: to debauch. Debauchery then, is an excessive indulgence of the body; licentiousness, drunkenness, corruption of innocence, taking up vicious habits. The term debauchery, as used in this statute, has an idea of sexual immorality; that is, it has the idea of a life which will lead eventually or tends to lead to sexual immorality; not necessarily drunkenness or immorality, but here it leads to the question in this case as to whether or not the influences in which this girl was surrounded by the employment which they called her to, did not tend to induce her to give herself up to a condition of debauchery which eventually, necessarily and naturally would lead to a course of immorality sexually. That is the question for you to determine, and it is a question that you alone can determine. You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was employed. You have examined by the testimony and your observation what was the character and what was the condition or influences in which the girl was placed by the defendants. Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman?

"Now, it is contended that they must have had a deliberate intent to debauch her when she came here; that either one or the other intended to debauch her or to get somebody else to debauch her. Now that term debauch is used in a great many instances in law, and the usual connection is to have carnal intercourse with; but there is no such language in this statute, nor is it the language of

the indictment. The charge of the indictment in substance is that they induced or influenced her to enter into a life or condition of debauchery,—'to induce or compel her to give herself up to debauchery.''

The language of the statute is directed against the transportation "of any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other im-

moral practice."

The instructions of the court were justified by the statute. It is true that the court did not give to the word debauchery or to the purpose of the statute the limited definition and extent contended for by defendants, nor did the court make the guilt of the defendants to depend upon having the intent themselves to debauch the girl or to intend that some one else should do so. In the view of the court the statute had a more comprehensive prohibition and was designed to reach acts which might ultimately lead to that phase of debauchery which consisted in "sexual actions." The general expressions of the court, however, were qualified to meet and not go beyond the conduct of the defendants. The court put it to the jury to consider whether the employment to which the defendants called the girl and the influences with which they surrounded her tended "to induce her to give herself up to a condition of debauchery which eventually and naturally would lead to a course of immorality sexually." That question, the court said, the jury should determine, and further "You have heard the testimony in the case in regard to the circumstances in which she was placed. You have viewed the scene where she was employed. You have examined by the testimony and your observation what was the character and what was the condition or influence in which the girl was placed by the defendants. 227 U. S.

Syllabus.

Was or was not it a condition that would necessarily and naturally lead to a life of debauchery of a carnal nature relating to sexual intercourse between man and woman?" The plan and place justified the instructions. The plan might have succeeded if the coarse precipitancy of one of the defendants and the ribaldry of the habitues of the place had not shocked the modesty of the girl. And granting the testimony to be true, of which the jury was the judge, the employment to which she was enticed was an efficient school of debauchery of the special immorality which defendants contend the statute was designed to cover.

Judgment affirmed.

## BENNETT v. UNITED STATES.

ERROR AND CERTIORARI TO THE CIRCUIT COURT OF APPEALS
FOR THE SIXTH CIRCUIT.

No. 603. Argued January 8, 1913.-Decided February 24, 1913.

Hoke v. United States, ante, p. 308, followed to effect that the White Slave Traffic Act of June 25, 1910, is constitutional.

A variance in names cannot prejudice defendant if the allegation in the indictment and the proof so correspond that the defendant is informed of the charge and protected against another prosecution for the same offense.

Variances as to the name of the woman transported or in the place where the tickets were procured or as to the number transported, between the indictment and proof of offenses under the White Slave Traffic Act held not to have prejudiced the defendants and not to be reversible error.

Instructions to the jury that there is testimony tending to corroborate the testimony of a witness charged with being an accomplice and that it is for the jury to consider the force and value of the testimony and the weight to be given to it, is sufficient to properly leave the matter with the jury.

194 Fed. Rep. 630, affirmed.

THE facts, which involve the constitutionality and construction of the White Slave Act and the validity of an indictment and conviction thereunder, are stated in the opinion.

Mr. Max Levy for plaintiff in error:

The only authority that Congress could have to enact the statute in question is the commerce clause in Art. I, par. 2 of § 8 of the Constitution of the United States.

A careful analysis of the statute develops—First, that it is not a crime for a common carrier to carry a person from place to place for the purpose of prostitution, or for any other purpose.

Second. The person traveling, or being carried, cannot be punished for traveling on the common carrier, notwithstanding the fact that she may be traveling voluntarily for the purpose of prostitution.

Third. It is only the person who purchases the ticket, etc., or in any way advises a woman or girl to travel interstate who is punished. In other words, the accessory is punished, and not the principal.

The power to regulate interstate commerce cannot infringe upon the police powers of the State; persons are not subjects of commerce. New York v. Miln, 11 Pet. 102.

The true test as to whether an article or thing is a proper subject of commerce and can be considered as a commercial article is whether the said article or thing is merchantable. Bowman v. Chicago & C. Ry. Co., 125 U. S. 489; Boyce v. Anderson, 2 Pet. 149; The License Cases, 5 How. 599.

Under power to regulate commerce, Congress has no power to declare the status which any person shall sustain while in a State. 17 Amer. & Eng. Ency. of Law, 2d ed., p. 52; Lemmon v. People, 26 Barb. (N. Y.) 270, aff'd 20 N. Y. 562.

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The intent in a case of this character does not govern, but it is the condition in which each article or subject is found. United States v. E. C. Knight & Co., 156 U. S. 1.

Congress has no right to regulate or punish prostitutes.

The crime of prostitution, or the procuring of prostitution in any of the States of the Union, if committed in any of them, comes under the police powers of the various States with which Congress has no right to interfere.

The various States of the Union have not delegated to Congress the right to interfere with their police powers,

such as the regulation of prostitution, etc.

The Government of the United States is one of enumerated powers, and all powers not granted are reserved to the people. Kansas v. Colorado, 206 U. S. 46, 89; Fairbanks v. United States, 181 U. S. 283.

An unconstitutional act is not a law. It is in legal contemplation as though it had never been passed. Norton

v. Shelby County, 118 U.S. 425.

Congress, under the commerce clause of the Constitution, has power to regulate the commerce and perhaps forbid commerce in any commodity, or to forbid any particular form of commerce, and when it has exercised that power of regulation, then, and not until then, the power to enact a criminal statute as a convenient means of carrying into execution the power to forbid under the commerce clause arises.

The non-exercise by Congress of its power to regulate commerce among the several States is equivalent to a declaration by that body that such commerce shall be free from restrictions. Welton v. Missouri, 91 U. S. 275; Hall v. De Cuir, 95 U. S. 485; Webber v. Virginia, 103 U. S. 344, 351; Smith v. Alabama, 124 U. S. 465, 473.

Now, then, Congress having passed no act making it unlawful for women to travel from State to State for any purpose, it is equivalent to the declaration of Congress

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that such travel by such person shall be free and untrammelled. United States v. Dewitt, 9 Wall. 41.

Congress not having passed a law prohibiting women from traveling for any purpose, it cannot be a crime to aid such women in traveling from place to place.

Congress has not exercised its power to direct that no woman or girl shall travel from place to place for any purpose whatever, moral or immoral, but, on the contrary, by its failure to so legislate, by its very negative act, has declared that right to exist.

There is a clear distinction between lottery dealing and the white slavery traffic, and the *Lottery Cases*, 188 U.S. 321, do not apply, as they do not refer to transportation

of persons but only of things.

Congress has no right to keep any person from traveling from State to State, because the person arriving at his destination intends to commit a crime upon his arrival. And if such person did commit a crime upon his arrival in a sister State, the Government of the United States could not assume jurisdiction because such person had traveled in interstate commerce for a criminal purpose. The police power of the State is supreme in such a case.

Even aliens come under the regulation of the police powers of a State as soon as they mingle with and become a part and parcel of the population of the State, and are then subject to the penal laws of such State. Keller v. United States, 213 U. S. 138.

Freedom of travel and intercourse cannot be infringed. The Passenger Cases, 7 How. 283, 426.

The statute is unconstitutional as denying equal protection of the laws.

The various States have never surrendered the police power to Congress, and, therefore, the law in question is an infringement upon the police powers of the State. King v. American Transportation Co., 14 Fed. Cases, 512.

It is not within the province of Congress, or of any

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legislative body, to restrict or restrain the migration of any person, or their social intercourse. Freund on Police Power, pp. 487, 528, 720; Ex parte Smith, 135 Missouri, 223; Paralee v. Camden, 49 Arkansas, 165; Millikin v. Weatherford, 54 Texas, 388; In re Lee Sing et al., 43 Fed. Rep. 359.

Mr. Assistant Attorney General Harr for the United States.1

Mr. JUSTICE McKenna delivered the opinion of the court.

Plaintiff in error and petitioner was indicted in the District Court for the Southern District of Ohio for the violation of the act of June 25, 1910. She filed a motion to quash and a demurrer to the indictment, which were overruled, and upon a plea of not guilty she was tried, convicted, and sentenced to eleven months imprisonment in the county jail of Miami County, Ohio, and to pay the costs of the prosecution.

She made motions for a new trial and in arrest of judgment, which were overruled, and she then prosecuted error to the Circuit Court of Appeals, where the judgment

against her was affirmed. 194 Fed. Rep. 630.

The demurrer and the motion in arrest of judgment raised the question of the constitutionality of the statute, and the decision of the Circuit Court of Appeals sustaining the ruling of the District Court is assigned as error. The constitutionality of the law was decided in No. 381, Hoke v. United States, ante, p. 308, and the reasons there given need not be repeated.

Rulings of the District Court and the decision of the Circuit Court of Appeals upon them are also assigned as

error.

<sup>&</sup>lt;sup>1</sup> See abstract of argument for the United States in Hoke v. United States, ante, p. 313.

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(1) Defendant was indicted for having caused the transportation of Opal Clarke, and, it is said, the testimony showed that her correct name was Jeanette but that she had gone by the names of Opal and Nellie, her real name, however, being Jeanette Laplante. A variance is hence asserted between the allegation and the proof. The Court of Appeals rightly disposed of the contention. As the court said, the essential thing in the requirement of correspondence between the allegation of the name of the woman transported and the proof is that the record be in such shape as to inform the defendant of the charge against her and to protect her against another prosecution The record is sufficient for both for the same offense. purposes. As the Court of Appeals said, "This leaves no possible ground for prejudice resulting from the double variance between the name used in the indictment and the name known to the respondent and the real name."

(2) The defendant, at the conclusion of the testimony, moved the court to instruct the jury to return a verdict of not guilty on the second count of the indictment for the reason that the indictment alleged that the tickets were procured at Chicago, Illinois, whereas the testimony showed that they were procured in Cincinnati, Ohio. The Circuit Court of Appeals did not pass on that assignment. It was either not made or it was considered to have no substantial support by the testimony. The only testimony referred to is that the tickets were purchased in Cincinnati and sent to the depot at Chicago, where the women transported got them and used them for transportation from there. It is not possible to imagine that the variance caused any prejudice, and the assignment may be passed without further comment.

(3) Another variance is asserted, in that the indictment charged the transportation of two women and the proof established the transportation of one. This again is a contention which has more of technicality than substance.

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How what the defendant did not do can be considered material description of what she did do is not easy to

imagine.

(4) There are errors assigned on instructions requested and instructions refused. The contention of defendant apparently is that both women charged to have been transported should have been objects of her intention and purpose. That aspect of the contention we have disposed of. So far as the instructions refused directed the attention of the jury to the intent and purpose alleged, they were covered by the general charge of the court.

(5) The basis of this contention is that Opal Clarke was the accomplice of defendant as to Ella Parks and that hence the court erred in its instructions to the jury in regard to the extent of the corroboration Opal Clarke's

testimony had received.

The instruction complained of submitted to the jury the fact and warned against a conviction upon the uncorroborated testimony of an accomplice and said: "Necessarily, if you find that she was an accomplice with respect to these charges or any of them, you will then necessarily have to inquire into the facts as to whether or not there is corroborating testimony. There is evidence tending to corroborate her testimony and it is for you to consider its force and value and the weight to give to it." The contention is that this was error, "as the court instructed the jury that there was corroborating evidence, when the court should have charged the jury that it was for them to ascertain from the testimony whether or not there was corroborating testimony." The objection is hypercritical. The court did not instruct the jury that there was corroborating testimony, but testimony of that tendency, and added that the force and weight of its corroborating power was for the jury to determine.

The record presents no error and the judgment is

Affirmed.

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## HARRIS, ALIAS SMITH, AND GREEN v. UNITED STATES.

ERROR AND CERTIORARI TO THE CIRCUIT COURT OF APPEALS
FOR THE SIXTH CIRCUIT.

No. 602. Argued January 7, 8, 1913.—Decided February 24, 1913.

Hoke v. United States, ante, p. 308, followed to effect that the White Slave Traffic Act of 1910 is constitutional.

Bennett v. United States, ante, p. 333, followed to effect that variances between the indictment and proof which did not prejudice defendants as to names of women transported for immoral purposes in violation of the White Slave Traffic Act, are not fatal.

The point of variance between indictment and proof relied on in this case not having been made in the trial court or Circuit Court of Appeals, comes too late when made in this court.

194 Fed. Rep. 634, affirmed.

THE facts, which involve the constitutionality and construction of the White Slave Act and the validity of an indictment and conviction thereunder, are stated in the opinion.

Mr. Max Levy for plaintiff in error.1

Mr. Assistant Attorney General Harr for the United States.2

MR. JUSTICE MCKENNA delivered the opinion of the court.

Indictment under the act of June 25, 1910. It contains three counts charging defendants (we shall so call plaintiffs

See abstract of argument for plaintiffs in error in Bennett v. United States, ante, p. 334.

<sup>&</sup>lt;sup>2</sup> See abstract of argument for United States in Hoke v. United States, ante, p. 313.

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in error and petitioners) with transporting and causing to be transported in interstate commerce certain named

women, for the purpose of prostitution.

After a demurrer to the indictment was overruled and trial upon the plea of not guilty, defendants were convicted, and defendant Harris was sentenced to four years' imprisonment and defendant Green for one year, both to pay costs of prosecution, and judgment was entered accordingly. The judgment was affirmed by the Circuit Court of Appeals. 194 Fed. Rep. 634.

The question of the constitutionality of the law was raised as in the cases which we have just decided, and nothing need be added to the opinion expressed in No. 381, Hoke v. United States, ante, p. 308, and we will pass to the

errors assigned.

It is contended that there is a variance between the allegations and proof, in that the women transported were named in the indictment as Nellie Stover and Stella Larkins and that the proof shows the latter's name was Estelle Bowles and the right name of Nellie Stover was Myrtie Watson. The point was not made either in the trial court or in the Court of Appeals. It comes, therefore, too late. But see, however, the opinion in No. 603, Bennett v. United States, ante, p. 333.

The next point made by defendants is that defendant Harris was entitled to an acquittal because of the insufficiency of the evidence to support a verdict of guilty. In passing on this contention the Court of Appeals reviewed the evidence and added its judgment of its sufficiency to that of the jury. We refer to the opinion of the

court and concur in its comment and conclusion.

Judgment affirmed.